PRACTICAL REAL ESTATE METHODS

for

BROKER
OPERATOR
OWNER

By

THIRTY REAL ESTATE EXPERTS

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PRACTICAL REAL ESTATE METHODS

For Broker, Operator & Owner

Thirty Experts on How to Buy, Sell, Lease, Manage, Appraise, Improve and Finance Real Estate

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FOREWORD

FRANCIS E. WARD

THE West Side Young Men's Christian Association is doing an important service to realty interests throughout the United States, by collecting in a carefully edited volume the remarkable series of real estate lectures and discussions delivered in its special real estate classes during the past five years. To have allowed these thoughtful discussions of practical real estate problems, carefully prepared by acknowledged experts of the Metropolitan District, to perish after a single utterance would have limited their usefulness to the few hundred men who have found the courses of great value. It would mean that the expression of the concentrated knowledge and experience of twoscore of real estate specialists, probably the best informed real estate forum ever assembled, had been lost to the thousands of real estate men, owners and investors, who, in these lectures, may now find answers to many daily problems.

Had these lectures been of the ordinary run of public addresses, dealing in glittering generalities and avoiding concrete problems, this statement would not be made. But throughout the courses their trend has been eminently practical, dealing with existing real estate perplexities and solving problems connected with buying, appraising, selling, mortgaging, financing, building and managing property, and the solutions have been based on

the actual experiences, the successes and failures of men whose word in their special lines is of highest value.

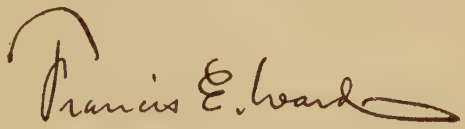
Therefore, this book, which possibly is a forerunner of a series of useful and timely volumes of vocational literature to be written and prepared by practical masters of leading vocations, is recommended to all who have to do with its subject matter or who wish to gain an exhaustive knowledge of realty customs and practices. To the real estate man and his employees it will unquestionably prove a most valuable book of reference, as the actual lectures proved to be of very great assistance to many active dealers in the New York real estate market.

For the young man or woman wishing to enter the realty field, this volume is probably the best textbook relating thereto and the best guide to its practice ever collated. While making no extreme claim, its editors have no delusions that its perusal will make the reader a full-fledged real estate expert. Such is not its purpose. A book cannot replace actual practical experience, but as a short cut to the acquirement of much useful knowledge and as a repository of the experience and honest opinion of men of exceptional success in the particular lines they discuss, this book should prove immediately helpful to those with limited experience.

The owner or private investor and the prospective builder for investment or speculation should find more than one of its chapters worth in actual cash returns many times the cost of the entire book. Every private investor should read carefully the chapters on appraising, the series on building and the summary on closing contracts—all being the work of accepted specialists who have given freely from their vast store of knowledge.

Moreover, because of the way in which it deals with

essential principles of realty trading, the value of this volume is by no means confined to those in and around New York. The principles defined, the problems solved, are applicable to real estate conditions in any city, and are of direct usefulness to those interested in the development of urban or suburban property, irrespective of its geographical location. Herein are treated the principles used by men who are active dealers, buyers and sellers of real estate; men who would have become great financial powers and land operators even if the field of their endeavors had been other than trafficking in New York realty, and the building and management of New York skyscrapers or tenements. Theirs would have been the anticipation of the effect of transportation in and about Manhattan Island, and the financing of great suburban developments, or the development of real estate interests in any community of the United States. For these lecturers have revealed to us, in addition to their long and varied practical experience, that subtle something which may be defined as the "real estate instinct." The successful possess it. May the readers of this book acquire it!



A WORD OF THANKS

THE WEST SIDE YOUNG MEN'S CHRISTIAN ASSOCIATION acknowledges its deep indebtedness to each of the authors of the thirty chapters, and also to many other real estate experts in New York, who have assisted materially as advisers to the editors. We feel peculiarly under obligation to these men for the direct way in which they have responded to our request for articles that should be practically helpful to men. In offering this volume to the public, we feel that we are but extending the directly helpful results of our educational work to a broader constituency.

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REAL ESTATE BROKERAGE AND AUCTIONEERING

JOSEPH P. DAY

Essentials of Brokerage Success—Value of Complete Information — Personality — Perseverance, Decision and Direction—Detecting Unusual Values—Closing a Contract—Showing Properties—The Auctioneer—Advertising Public Sales—Concentrated Copy—Action and Reaction—Auction Valuations

THE real estate broker, as the connecting link between owner and purchaser, must rely for success primarily upon the establishment of some good system which keeps him constantly in touch with active properties and those which can be brought into the market, and also with lists of persons with money to invest in various forms of real estate. Having a piece of property to sell and a prospective purchaser in mind, he must depend, to close a sale, upon the following elements: his personality; presentation and avoidance of misstatement; perseverance in the right direction; securing a balance between what the owner will take and the buyer will give; and ability to draw up and secure the signing of a contract the instant the two minds are in agreement. These qualities are all essentials of real estate salesmanship.

In locating the prospective purchaser, the matter of *decision* plays a most important part, especially in saving the broker's time and money. For instance, it is not exer-

cising proper decision to offer a big acreage tract to a man who is able to operate only in a small lot development or to offer a Broadway business property to a man whose field is restricted to operating in tenement houses. The reverse also is true; it is poor policy to offer a tenement house to a man who confines himself to big business properties. And while perseverance is generally a virtue, perseverance in trying to sell a piece of property to a man who never deals in that particular variety of investment is so much wasted effort. But perseverance properly *directed* toward influencing a prospective purchaser who has been chosen with proper decision is absolutely essential to success. The most successful broker is the one who can persevere the most in the *direction* of a purchaser to whom the proposed property offers a natural investment.

Value of Complete Information

In order that proper decision and decisive perseverance may be introduced, it follows that the broker must keep all the data he can get about the tendencies, likes and dislikes of each of his list of possible investors. By means of cross indexing or other devices, he must be able to pick out those that offer the best market for each kind of property. If he is in the habit of mailing offers and notices frequently to his list of "prospects," he will save greatly on printing and postage if he can cut from the mailing list for a specific circular all those who, it is certain, will have no interest whatever in the special offering. Moreover, if this plan can be followed, the broker will avoid making his mail matter a nuisance to many people and escape the danger of having it all

thrown into the waste basket because the recipient has gained the impression that none of it has any direct interest for him. Inasmuch as newspaper advertising is but a means of seeking a buyer, decision as to the class to be interested will determine the mediums to be employed, the amount of space used and the class of copy put out.

When the prospective buyer is definitely located, the broker must bring into play his salesmanship ability.

Personality

In salesmanship the personality of the broker enters almost immediately and continues to be a factor throughout. Whether the broker will secure the right to list a property often depends upon his personality—the way he impresses the owner at the first meeting. Sometimes unfavorable impressions created the first five minutes can never be overcome. Not infrequently the question of whether a purchaser will even look at the property depends on the broker's appearance and manner. For until we actually know the real man we are forced to judge by his exterior characteristics. Sometimes a man can live down first impressions, but any unfavorable impression is a handicap and therefore puts a useless obstacle in the way. In general, the personality of the broker should create the impression that he is a solid, intelligent man with plenty of energy and perseverance. Naturally he should be neat in dress, have no eccentricity of raiment that will attract the mind of the customer away from the deal or create the impression that he is sporty or frivolous. I have known of cases where the fact that a caller's clothing was over-scented with

tobacco created an unfavorable impression. Moreover, the broker must be able to make friends, be a man who has ideas and whom, therefore, men are glad to see even if they have no business at the particular moment. But this implies no necessity whatever on the broker of drinking or smoking if he does not want to do so. I have never been able to discover that drinking is essential to commercial success.

To sell a piece of property, the broker naturally must know that property thoroughly. It is good practice, then, for the broker to visit the property himself or to have a *competent* assistant inspect it. The results of such an inspection should be made a matter of record and a complete description of it and all data bearing on its actual value and the value of property in the neighborhood made readily accessible to those in his office. Where records are to be used by more than one person, it is essential to have a fixed system of denoting quality. "Good," "Fair," "Excellent," "Poor," etc., as applied to buildings should have a definite value, mean a specific standard throughout the office.

Detecting Unusual Features

In determining the value of a piece of property and in working up its selling and talking points, the broker naturally must be thoroughly familiar with the neighborhood. He must be aware of projected improvements in transportation, change in character of tenancy, keep track of parallel sales, gather newspaper and private information and also be able to work out new uses for the property which would increase its earning power. For example, especially in a new section, he should be

able to foresee that the particular plot would make a fine location for a certain sort of store. Naturally, he must be able to detect strategic values or key situations. In a recent deal, a broker was able to foresee that an adjoining owner would eventually be forced to buy a certain lot and so advised his client to pay what seemed to be an abnormal price in view of the sales record for the neighborhood. In this instance, a year of waiting brought a profit of $20,000. In this particular instance, the rents of the parcel in question when capitalized did not indicate anything like the price first paid. The fact of the matter was that the rents were too low, and the first step of the broker was to raise them materially. In arriving at value by capitalizing rents, therefore, it is necessary to make certain that the current rents are not too low, or to have enough vision to foresee a greatly increased income from a new building or from improving the old building. Vision of this sort frequently supplies admirable talking points to present to the purchaser.

Knowledge of the conditions which detract from the value of a piece of property also is necessary, both to enable the broker to prepare himself to meet such objections on the part of the purchaser and for use in educating an owner who is asking too much for his property. For example, a public school on a block hurts private dwellings, but helps tenement property. An armory hurts a neighborhood because it is unoccupied except for a few hours at night. Consequently, it does not help the butcher or baker and is of service, if at all, only for a few hours each evening to the corner saloon. In other words, an armory cuts out a block of families. The restrictions on property or adjoining property also are very important. A man does not

want to buy a high-class private dwelling for his own use if some one can build cheap flats on the property across the street.

Need for Quick Closing

Skilful use of facts and arguments which will lead the purchaser to increase his offer and the owner to lower his original asking price, if it be really excessive, is very essential. For the broker, after getting the purchaser interested in a piece of property, must be like a pair of balance scales. Invariably he will find the owner quite up in his price as compared with the purchaser, who is low in his offer. The broker must be able to get the one down and the other up at practically the same time. He must be able to detect the psychological moment when the two minds meet and when he has them evenly balanced draw the contract *right then and there.* Let him not delay an instant. He should draw the memorandum of contract in lead pencil on the back of an envelope if he hasn't anything else to draw it on. For if he gives the two parties time to consider after they have once struck a balance, he may never get them to agree a second time. Brokers who are clever at closing contracts at a moment's notice possess a most valuable asset.

In showing property to prospective purchasers, the broker should not talk too much. Leave something to the purchaser's imagination; do not insult him by making him feel that you think he doesn't know anything. Give him a chance to let his own mind play on the property and give him a chance to establish his own convictions as to the property's desirability. And above all, the broker should *never misrepresent facts,* as misrepresenta-

tion of fact may invalidate a contract, and besides it is best to be straight and clean cut in all your dealings.

Showing Properties

Decision and direction of perseverance are as important in showing a list of properties as they are in locating a purchaser. Therefore, it is advisable not to show a purchaser too many different properties all at once. This is particularly true in dealing with dwelling houses. After a man has visited ten or fifteen houses in one morning, he gets confused and probably has a very vague idea about any except the two or possibly three that were last on the trip of inspection. It is good practice, therefore, to pick out two or three houses —not more than a half-dozen——which seem to offer just about what will suit the customer. If he is a man whose general style indicates clearly that he wants a modern house with two or three baths, select a few houses of that type and show them to him. In each house it is well to try to identify that house for the customer and fix it definitely in his mind by dwelling on some desirable and distinguishing feature. The sort of people that own adjoining houses, an open fireplace, a cedar closet or some other seemingly minor accessory of a house which happened to strike the fancy of the purchaser has frequently clinched a sale.

Seeming objections to a piece of property, the broker should be ready to answer, but it is very bad policy to approach a house with the fear that such and such an objection will be an insurmountable obstacle. Let the customer raise the point. In one such case, the broker, after submitting various houses to a man and

his wife, who were in a quandary as to final choice, showed a dwelling near a railroad. Suddenly the little son of the couple, who was at a window, called out: "Oh, see the 'choo cars.'" The broker saw his commission vanish as the train came snorting up and the window was raised so that the child could get a better view. And yet the "choo cars" were the thing that clinched the sale, because the parents knew the child's passion for looking at trains, and their willingness to gratify it entirely outweighed any annoyance they might feel at the noise. The skilful broker, therefore, tries to size up accurately the customer's point of view. In many cases, he must overcome objections that are purely imaginative. But he can make a much better argument against an objection if he himself has not allowed himself to feel that this one flaw will break off the deal. It is just as well to possess optimism in such cases. But throughout the great thing is tact. Optimism must not be allowed to give an idea that the broker is over-anxious to make a sale.

Wives frequently play a most important part in a real estate transaction, and it is well not to overlook them. Many times, after a seller and a buyer are practically agreed on a price, the purchaser will say, "I want to talk it over with my wife." Sometimes this is entirely sincere; in other cases it is simply a subterfuge of the purchaser to gain time to think things over by himself, as he fears the eloquence of the broker is over-balancing his judgment. But when the wife is mentioned, the wise broker offers to go at once with the purchaser to see her, or makes an appointment for the evening. He then endeavors to lead the wife to regard the property in the same light as her husband.

Concentration in Selling

In pushing property, it is good practice to concentrate rather than to spread one's effort out until it is thin. Little is gained by actually pushing a single property at the same time with each of a large list of possible buyers. Nor is it good practice to try to play one against the other. This does not mean, of course, that the property should not be brought to the attention of all who might be interested. But to attempt a vigorous personal selling effort with many different principals at once involves unwarranted effort and, moreover, if the fact becomes known, has a tendency to cheapen the property, because people get the idea that there is an awful rush to sell it. The effect is much the same as when a mortgage is offered around promiscuously. The policy of playing one purchaser against another in private selling, if discovered, will be very likely to lessen confidence and possibly alienate valuable clients. For the same reason, a broker should not operate for himself. For if it be known that a broker is on the lookout to snap up the good things for himself, purchasers will get the idea that he offers them only what he himself doesn't want.

Protecting the Purchaser

When representing the purchaser, the broker should never by any chance make a *written* offer for the property. If, for example, a purchaser's broker should write to the owner's broker that his client is willing to give $350,000 for a certain property, the owner's man may show that letter to other prospective purchasers. Such a letter is definite proof that some one else wants the

property and fixes a minimum valuation. "If Smith, the well-known broker—he's a shrewd appraiser—offers in writing to give $350,000 for a client, you can see how valuable the parcel is," may be the use that will be made of the offer. This simply places the purchaser in a position where his offer can be made a boomerang. If, on the other hand, the offer is made orally, the owner's broker has nothing to show, and his statement of the offer, in the absence of proof, might be looked upon as insincere.

AUCTIONEERING

On the auction stand, all the qualifications of the expert broker are essential. In addition, the successful auctioneer must be able to answer questions instantly and effectively, and must have a certain amount of advertising ability in order to put the property effectively before the buying public.

Auction sales are really of two kinds: first, Supreme Court sales—foreclosure, partition and trustees' sales by order of the court; and, second, voluntary sales—executors', dissolution and ordinary voluntary sales. These sales are obtained by the auctioneer because of his personality, his perseverance, his reliability and, finally, his reputation as a result getter.

Advertising

Once the sale is secured, the first step is to advertise the sale. Decision must be made as to the best time to hold the sale and the classes of buyers to whom

advertising should be directed. This gives an idea as to what sort of copy and space to use and what mediums to employ. In preparing advertisements, originality is very important. But it is not necessary, in order to be original, to be undignified. Where catch phrases are employed they should invariably carry with them an important idea of why to buy. They should lead to a *brain impression,* instead of being merely eye-catchers. By making a brain impression is meant getting the idea past the eye as mere type or picture and fixing it in the brain as an impression that will last and help establish the notion "good to buy for ME." Pictures employed in advertising are another good medium for brain-impressing power.

Economy is the great thing in advertising. Simply because an advertisement brings a goodly number of inquiries and sells a good deal of property, it is not necessarily an economical ad. Smaller space with different copy might have produced equal results. Different copy in the same space might have gained greater returns. Double the amount of space might have produced three times the results. An advertisement is economical only when it produces maximum results. In some cases, bill boards, street car cards, electric signs, extensive mail matter, are necessary and economical; in other cases such a campaign would be too costly. The one test of advertising is *sales,* or perhaps the number of people it induces to visit the property. For it profits an auctioneer little if thousands ask for information and none of them buys, or the sales do not pay for the publicity campaign and yield a good profit besides. But if sales are unsatisfactory, the advertiser must not always blame the mediums he has used. It

may be that he did not use the right copy, or that his follow-up matter for inquirers was wrong. Getting people to look at the property is half the battle. And after an advertisement has "pulled" a large number of visitors, if no sales follow, the fault lies either in the fact that the copy made unfounded statements, that the property is not good, or that the auctioneer is a poor salesman. An advertisement which exaggerates is dangerous. The man who reads of a flowery paradise and finds a desert waste will never buy. Yet this same man, if he had not been led to expect too much, might have been glad to invest in desert property.

Concentrated Copy

Concentration in advertising is one of the most effective devices for economy of expenditure and maximum advertising effect, for a single sales day. If an owner gives an auctioneer $100 to advertise a single piece of property, little effect can be secured any way it is spent. But if the auctioneer has nine other parcels, each putting in $100, this gives $1,000 to spend in making that sale, and each parcel to be offered attracts attention. Each parcel can be made a prominent feature of ten $100 advertisements. Care must be taken, of course, to see that each parcel retains its own identity. One can readily see how the great special sale advertisements of a department store would be weakened in effect if they were broken up into a score of little advertisements, one advertising furniture, another shoes, a third dress goods, etc., all in different parts of the paper. There would be loss in the mere repetition of the address of the store and of the terms of sale.

Each of our ten fingers has its own work to perform. Yet, if we combine the power of the ten in grasping what we wish to move, we can accomplish results which no one of our fingers can achieve even proportionately. This illustrates the natural law of concentration of power in physical matters. The same law applies to the workings of the human mind. Concentration in advertising simply means having ten type fingers "pulling" on the buyers all at once, instead of one finger trying to pull by itself.

Introducing an Auction Sale

The actual auctioning of property is introduced by reading the terms of sale and making them entirely clear to everyone. The different selling points of the property are driven home to the minds of the buyers. In this work, the auctioneer who has vision — the ability to foresee the possibilities of a vacant tract, to work out as it were a concrete development for it, to show what sort of store or building will make money on a certain corner, what residence property will pay when built— has an advantage. Naturally, the auctioneer must have at his tongue's end the history of parallel plots where investors have made handsome profits, and be able to argue from the trend of values in adjoining neighborhoods the value of the present offering. In this exposition of the property he must not be too glib or flowery. Let him make his points in plain every-day English, using as far as possible simple snappy cases to illustrate his meaning and to create sincere brain impressions. Spoken words, like type, to be effective, must sink into the brain.

Action and Reaction

When bids are called for, the man on the block must use another great natural law — *action and reaction.* This may be illustrated with a piece of rubber band. If we stretch a rubber band and continue to stretch it beyond the breaking point, it snaps and we have a smaller piece of rubber. If we repeat the process with the smaller piece, that too will snap and leave a still smaller bit, and, mind you, with less vitality. If, on the contrary, in stretching our rubber band, we "sense" when it is approaching the breaking point and let it down, we can continue to work with that band without having it snap.

The same condition is present in the human mind. If we talk and talk and shout and shout at the people beyond measure, we soon have them up to such a pitch that, like the rubber band, their tension will snap. When this happens, some of them, including bidders who are really interested, may leave without buying. Instead of talking at them in a continuous strain, we should ease them up at times, using the law of "action and reaction." Suppose we are selling the property No. 1563 Broadway. The bids have started at $15,000 and have been raised in jumps of from $1,000 to $5,000 to $60,000. Action is very keen and the audience begins to get pretty well strained. The auctioneer, to ease up things (reaction) calls attention to some amusing incident in the audience. The audience, because of the strain, is ready and glad to relax and enjoys the little respite. This rests them, and the auctioneer proceeds with the bidding. If the auctioneer himself has the proper balance and avoids over-straining the audience, he will

finally bring the bids up to the value of the property and so get the proper result. In this, as in a private sale, the auctioneer is really bringing about a balance between the owner and the buying public.

The letting down of the tension, however, must be very skilfully handled, for it is possible to make your interruption of such a sort that it breaks up seriousness and takes attention entirely away from the property. The interruption should be of such a nature that it will lower the tension from *bidding,* but not divert thought from the scene of action. Interruptions before the tension point is reached are dangerous. For this reason, the auctioneer must be able to answer questions from the audience instantly and in few words, and in such a way that they do not disturb the growing attention. One reason why the little interruption frequently leads to better bids is that it gives bidders a moment or two to think the value over for themselves and to feel that their judgment is not being overbalanced by the excitement of bidding. And the public must remember that at an absolute auction sale the value of the property is not necessarily what expert appraisers would rate it, but no more nor less than what it actually brings from the block. The auctioneer, in sensing when tension is getting too strong, must, therefore, be guided by his understanding of his audience and what they will finally bid rather than by any preconceived notion of appraisal value.

RELATIONSHIP BETWEEN BROKER AND CUSTOMER, AND LEGAL PRINCIPLES INVOLVED

ABRAHAM STERN

Employment of Broker—Implied Contracts—What Entitles to Compensation—Agent's Act and Principal—Rights of Principal—Double Employment—Options—Purchaser's Responsibility

In discussing the subject of this lecture it is not my intention to go into the ethical side of the question. Like every other business, that of the broker is or should be subject to the same rules of conduct as are applicable to any other vocation. Good faith and truth are fundamental principles, applicable to the relationship of broker and principal as well if not more so as to other pursuits, and in the long run the broker who never loses sight of this fact and practices it will succeed in inspiring confidence, which is the most valuable article of the broker's stock in trade. We shall, however, in the limited time allotted for the purpose, discuss, in a cursory manner, the legal problems involved in the relationship of principal and broker. In order to properly understand the subject and to simplify it we shall divide the subject into the following subdivisions and take them up seriatim:

I. The employment of the broker.

II. What efforts of the broker will entitle him to compensation.

III. How far the principal is bound by the acts of the broker.

IV. The rights of the principal.

The Employment of the Broker

At first sight it would appear that this proposition is a very simple one, and about which there ought not to be much dispute. A perusal of the numerous cases reported in the law reports on this subject will readily convince one that the question of employment has been the cause of very fruitful litigation. It may be asked, How does this condition of affairs arise? The answer thereto is that the eagerness of the broker to effect a sale ofttimes makes him lose sight of the first necessary step to be taken to insure his compensation. It is a fundamental and well established rule of law that the employment of a broker in case of a dispute must be proved either by a direct employment or by proof of such circumstances as will imply a contract of employment. It is not enough for a broker to go to an owner and tell him that he has a customer willing to purchase his property, get the terms and price and then proceed to effect the sale. Judge Woodruff, in the case of Pierce vs. Thomas, 4 E. D. Smith, 354, concisely states the legal principles involved: "To entitle a broker to recover commissions for effecting a sale of real estate, it is indispensable that he was employed by the owner to make the sale. A ratification of his act, where original employment is wanting may in some instances be equivalent to an original retainer, but only where there is a plain

intent to ratify. An owner cannot be enticed into a liability for commissions against his will. A mere volunteer without authority is not entitled to commissions, merely because he has inquired the price which an owner asks for his property and has then sent a person to him who consents to take it. A broker has no better claim to recover for voluntary service rendered without employment and not received and acted upon by the owner as rendered in his behalf, than any other volunteer."

An interesting case on this subject is one involving the sale of the premises at the northwest corner of Broadway and Thirty-fourth Street, being the small parcel adjoining Macy's. This was sold for three hundred and seventy-five thousand dollars. The broker negotiating the sale called upon the agents of the owner, who was in Europe, and informed the agent that he had a party who was interested in the property and desired to purchase it. He offered three hundred and twenty-five thousand dollars for it, which the agent declined, and told the broker that nothing less than three hundred and fifty thousand dollars would be considered, and for the broker to put his offer in writing, and that upon the owner's return from Europe the offer would be submitted. Upon the owner's return the parties met, and the owner demanded three hundred and seventy-five thousand dollars, and the broker accepted the same and the transaction was consummated and the deed delivered. The owner declined to pay any commission, claiming he had not employed the broker, that the latter acted voluntarily and was the agent of the purchaser. The Higher Courts sustained the contention of the owner, and the broker, through his failure to ask whether the

owner would pay commission, which he, no doubt, would have agreed to, was out $3,750.

It is very difficult to define exactly what circumstances will raise the presumption of an implied contract, where an express contract is not shown. If the owner recognizes the claim by offering a less amount, the broker would be entitled to recover, and it may be laid down as a general rule that any act upon the part of the owner recognizing the claim is sufficient to raise the presumption of an implied contract to pay. Proof of a general custom on the part of owners to pay commissions in the absence of an express contract, so to do, is not sufficient to establish the liability of the owner. Such a custom cannot fasten upon a property owner any liability as the employer of a broker simply because he consents to sell his property to someone and is induced to sell it through the agency of the broker without any request express or implied on the part of the owner. This was expressly decided in the case of Brady vs. American Machine Co., 86 App. Div. Rep., 267. You will, therefore, see the importance of the first step in undertaking negotiations to get an unequivocal promise to pay the commissions. Another element of uncertainty has arisen of late which makes the vocation of the broker far from a pleasant one and which impedes his efforts with entanglements and difficulties. Assuming that he has received an express promise, he is met with the further obstacle that the owner never authorized the broker in writing to offer the property. In 1901 an Act was passed making it a misdemeanor for the broker to offer the property of an owner, unless the authority so to do is given in writing, this to apply to cities of the first and second class only and not the rest of the State.

This Act is highly penal in its nature; its enactment was no doubt caused by the numerous suits brought by unscrupulous persons, claiming to have acted for the principal, and by reason of the frequency of false swearing in court, in order to obtain the compensation. There, no doubt, was much reason and provocation for its enactment, but, in my opinion, the prevention of the evil complained of could have been accomplished in a manner much more efficient and without causing the serious consequences entailed, by passing a statute similar to the one existing in New Jersey, where the promise to pay must be in writing.

The Act as it now stands has caused as much litigation as its passage endeavored to prevent. As matters now stand the Appellate Court in the Second Department has declared the Act to be unconstitutional, while the Appellate Division in this Department has declared otherwise. As the Act is a penal one, it will be strictly construed. It is not necessary that the authority required by the Act should be in any prescribed form. Any memorandum from which such authority can be spelled out will be sufficient. A card or other memorandum upon which the owner has set forth the price, terms and dimensions, however informal, will be sufficient, without setting forth in express terms the authorization.

What Efforts Entitle to Compensation

Having started out aright, and obtained the written authority, provided for as above stated, what steps must the broker next take to earn his commission? It is of the utmost importance, in order to save future trouble and litigation, to get all of the particulars affecting the

parcel to be sold definitely and positively. These consist, in the first place, of the ownership; next, the dimensions of the parcels; third, restrictions, if any, affecting the property, and, fourth, the terms of sale.

Ownership — There are many persons acting in a representative capacity, such as executors, trustees and attorneys in fact, who derive their title through wills, trust deeds or powers of attorney. It is remarkable how many of these persons offer property without first consulting competent legal counsel, only to find out, when all negotiations have ended satisfactorily, that the individual has no right or power to sell, and the broker's labors have been in vain. It should be ascertained at the outset whether such power to sell exists and whether the terms of the will or other instrument involved are legal and sufficiently explicit to effect the sale and prevent litigation; this, of course, should be ascertained by the owner.

Dimensions — This fact can be easily ascertained by an examination of the deed, or, in case the deed cannot be procured, by an examination of the records. An unintentional misrepresentation by the owner as to the size of the plot does not amount to a warranty, and the owner is not liable for commissions, although the purchaser is willing and ready to purchase and the price has been agreed upon, but is unwilling to enter into a contract upon ascertaining that the dimensions are not as they had been represented. An owner through error represented his property to be fifty feet front and seventy-six feet deep; negotiations had been carried on for some time and finally the price and all other terms were agreed upon. Upon examining the deed for the purpose of drawing the contract, it was ascertained that the plot

was only sixty-six feet deep, and as the purchaser declined to enter into a contract, suit was brought against the owner for commission, and the court decided that the owner was not liable. Hausman vs. Herdtfelder, 81 App. Div., 46. An examination of the deed in the first instance would have prevented much trouble and litigation.

Of equal, if not more, importance it is to ascertain whether any restrictive covenants against erecting any kind of building or tenement exist, or whether there are any restrictions to using the entire lot for building purposes. This can as a rule be ascertained by an examination of the deed or abstract. As to the terms of sale, whether all cash, or whether the property is subject to mortgages or leases, it is hardly necessary for me to discuss how important it is to get these matters in proper shape before negotiations are undertaken. Assuming that all of the foregoing matters have been satisfactorily arranged, we come to discuss the next question. What efforts of the broker will entitle him to compensation? It is a fundamental principle of law that the broker must be the procuring cause of the sale; that he must bring the minds of the seller and purchaser together, and that through his efforts they have agreed upon all the terms and conditions imposed by the vendor. Having accomplished this, he is entitled to his compensation, even if the sale is not consummated by reason of any act or fault of the principal. While a contract for the sale of real estate to be binding must be in writing, yet an agent who has been authorized to make the sale at a certain price earns his commission when he has procured a purchaser ready and willing to purchase at the terms fixed, with whom the vendor refuses to contract

or to whom he refuses to convey upon payment. It is indispensable that the minds of the contracting parties should meet, before the broker is entitled to commission. This is illustrated more particularly by the following case.

When the Owner Changes His Mind.

A broker employed by the owner of a parcel of real estate, in New York City, secured a purchaser who agreed to buy the property at the owner's price, and made a cash deposit thereon on the 10th day of September, 1902. On the 15th day of September, 1902, when the parties met for the purpose of executing the formal contract of sale, the proposed purchaser asked for a reasonable time in which to examine the title before taking the deed. The owner, who was expected to give a warranty deed, consented to grant the necessary time, but insisted, as the time suggested would extend over the date when the taxes would become a lien on the property, viz., October 6th, 1902, the contract should contain a clause requiring the purchaser to pay such taxes. The purchaser refused to assent to insert such clause, and solely because of such refusal the negotiations were terminated. It was held that the owner was not liable and was justified in demanding the insertion of such clause. The broker is never entitled to commission for unsuccessful efforts. The reward comes only with success. He may have introduced to each other parties who otherwise would never have met; he may have created impressions which under later and more favorable circumstances naturally lead to and materially assist in the consummation of a sale; he may have planted the very seeds from which others reap the har-

vest, but all that gives him no claim. It is part of his risk that, failing himself and not successful in fulfilling his obligations, others might be left to some extent to avail themselves of the fruit of his labors. In such a case the principal violates no right of the broker by selling to the first party who offers the price asked, and it matters not if the sale is to the very party with whom the broker had been negotiating. This, however, must be taken with one important and necessary limitation. If the efforts of the broker are rendered a failure by the fault of the employer; if capriciously he changes his mind after the purchaser, ready and willing and consenting to the prescribed terms, is produced, or if the latter declines to complete the contract because of some defect of title in the ownership of the seller, then the broker does not lose his commission.

One other principle underlying the relationship of owner and broker is, where no time is fixed for the continuance of the employment, either party is at liberty to terminate it at will, subject only to the ordinary requirements of good faith. Usually the broker is entitled to a fair and reasonable opportunity to perform his obligations, subject to the right of the seller to sell independently. This right having been granted him, the right of the owner to terminate the employment is absolute, except that he may not do so in bad faith and as a mere device to deprive the broker of the fruits of his labor. Thus, if in the midst of negotiations, and while the broker is about succeeding in his negotiations, the seller should revoke his authority, with the view of concluding the bargain himself and avoiding the payment of commissions, it might well be said that the due performance of the contract was prevented by the prin-

cipal, but acting in good faith as above stated, the right to revoke is absolute, otherwise the contract would be extended indefinitely and no man could know when he was freed from the obligation. The leading case upon this subject is — Sibbold vs. Bethlehem Iron Co., 83, N. Y., 276.

If the owner is willing to sell, and requests the broker to bring the purchaser to him, and the latter declines to negotiate through the broker, is the owner at liberty to negotiate with the same purchaser through another broker? The late case of Sampson vs. Ottinger has decided this question in the affirmative. In that case the broker had conversations with the owners and informed them that he had a party willing to purchase the owners' property. The owners requested the broker to bring the intending purchasers to them, in order to settle the terms of the transaction, as there was a building loan to be made. The purchasers declined to have anything to do with the broker or to enter into any negotiations with the owners through this broker, and the broker never produced his parties, but gave to the owners the names of the intending purchasers. The owners never repudiated the employment of the broker and were willing to have him act if he could bring the parties together. This he failed to do, and the owners subsequently, through the efforts of other brokers, came into negotiations with the purchasers and sold the property. Under these circumstances the court held that it could not be said that the owners interfered with the broker, so that the latter could not accomplish the purpose for which he was employed: having been requested to bring the parties together and having failed to do so without any fault on the part of the owners, he failed to perform

his contract, and having so failed, the owners were at liberty to negotiate either personally or through other brokers, the purchasers having failed to agree upon terms or have anything to do with the broker. The employer violates no right of the broker in negotiating directly with a proposed customer, after the broker has failed to bring such customer to specified terms, nor is he liable for commissions under such circumstances if the owner's independent negotiations result in a sale.

We do not mean to hold that the broker must of necessity be present and an active participator in the agreement of buyer and seller when that agreement is actually concluded. He may just as effectually produce and create the agreement, though absent when it is completed, and taking no part in the arrangements of the final details, but it must be through his efforts that the deal is closed. How far the courts have gone in laying down this principle is aptly illustrated in the case of Sibbold vs. Bethlehem Iron Co. The Iron Company employed the broker to sell steel rails to the G. T. R. R. Co. The broker had several interviews with the company, and negotiations were carried on during a period of four months; the Iron Company during this period had fixed its prices several times. The broker received a telegram from the Railroad Company asking upon what terms the Iron Company would deliver rails (1,000 tons); the broker telephoned to the Iron Company asking its lowest terms. The Iron Company declined to fix a price or to negotiate further through the broker, and the latter thereupon telegraphed to the Railroad Company that the Iron Company declined to name a price. The Iron Company thereupon commenced negotiations through another broker, and subsequently a sale was

made by the Iron Company to the Railroad Company through this other broker. Upon the trial of the action for the commissions of the first broker, the Court below held that the Iron Company had no right either in good or bad faith to avail itself of what the first broker had done to make a sale through other agencies. On appeal it was held that the Iron Company had the right to terminate the agency as it did, and, if done in good faith, the first broker had no right to compensation, although his efforts were of benefit to the subsequent successful negotiations

In another case, Wylie vs. The Marine Bank, the bank had its building in the market for sale. The plaintiff, the broker, went to one of the officers of the bank and informed him that he had a purchaser; he was informed that the price asked was $80,000 and that if he sold it they would pay commissions. He reported the price to his customer, who authorized an offer of $75,000. This offer was reported to the bank, a meeting of the directors was called, and it was decided to sell at not less than $80,000. This was communicated to the broker, who reported it to the intending purchaser. The latter declined to raise his bid, and the broker so reported to the bank. The following day the purchaser heard, through other sources, that other parties were after the building, and, hearing that one Pond was a dealer with the bank, they procured him to go to the bank and see how matters stood and what he could do; in the meantime the first broker did nothing further in the matter and was unaware of the intrusion of Pond. The latter reported to the purchaser that there was an offer of $77,500, but that nothing less than $80,000 would buy it. The purchaser then authorized Pond to offer that sum, and the

deal was closed. The Court of Appeals held that the first broker was not entitled to any compensation.

How Far Principal Is Bound by Agent

If the agent makes any material misrepresentations, as for instance, the amount of rent, or any other statement which the purchaser relies on and is induced to purchase the property by reason thereof, and such misrepresentations should turn out to be untrue, the purchaser is entitled to relief and if he has entered into a contract may rescind the same, and if the deed has been delivered and the deal consummated, is entitled to have the sale cancelled and be restored to his original position. And this is so whether the representations were wilfully made, or whether innocently made without proper knowledge upon the part of the agent, and it makes no difference that such representations were made without the authority of the principal or even without his knowledge, no matter how innocent the seller may be of any fraud or guilty knowledge. A principal cannot enjoy the fruits of the bargain without adopting all the instrumentalities employed by the agent in bringing it to a consummation. If an agent defrauds the person with whom he is dealing, the principal, not having authorized or participated in the wrong, may no doubt rescind, when he discovers the fraud, on the terms of making complete restitution. But so long as he retains the benefits of the deal he cannot claim immunity on the ground that the fraud was committed by his agent and not by himself—Bennett vs. Judson, 21, N. Y., 238.

The rule is that the receipt and retention by the principal of the fruit and product of the fraud of the agent

renders the principal liable, though innocent of participation in the wrong. In a transaction involving the exchange of properties, the owner of one of the parcels was told by the broker that the owner of the other parcel offered in trade had actually paid in cash twelve thousand dollars for it, and to prove it he exhibited to her the deed executed by the executors, in which the consideration was stated at $12,000. She, believing this statement to be true, made the trade, and upon subsequent investigation it was ascertained that this fact was untrue; that the consideration inserted in the deed was fictitious, that the actual price paid for it within a month was $7,000. The court held that this was a misrepresentation of a fact and not merely an opinion as to the value, and one to influence a purchaser, and constituted a sufficient basis to rescind a sale. It must not be understood that a mere statement of the agent or of the owner of the value of the property would constitute a misrepresentation; a false statement as to the value of property made by a vendor for the purpose of obtaining a higher price than he knows the property is worth will not sustain an action for fraud or entitle the purchaser to rescind a contract. The purchaser must rely upon his own judgment as to value, but this statement is to be distinguished from the case where the false statement is of an actual fact as above stated. It is also a well settled rule of law that if the owner is induced to execute a contract of sale by reason of misrepresentations made by his own agent the latter is not entitled to commissions, although the owner carries out the contract.

In reading of the large deals in real estate made at the present day, we are apt to believe that they are

unprecedented, and that they are evidence of a progressive age, or undue speculation; so, also the manner in which such lands are purchased, and the want of proper investigation as to the availability of land for particular purposes by intending purchasers. An examination of cases decided in the courts in the early part of the last century convinces one that the same spirit of speculation existed then as now, if not on a larger scale, as is shown by the opinion given in a case decided nearly seventy years ago. A person offered lands for sale by the acre, near the city, and represented that the same was adapted to be laid out into city lots, free from rock, and level and graded, and said that it actually cost $32,000, and induced the purchaser to take a large interest in the property at that price. The purchaser relied upon these statements and never examined the property; the representations turned out to be false, as the property only cost $16,000 and was hilly and not graded and full of rock. In an action brought to rescind the sale on the ground of these misrepresentations, Judge Bronson, one of the ablest judges this State has ever had, states: "It will seem marvelous if not wholly incredible to those who do not live in the years 1835 and 1836 that men should purchase land lying within a few hours' ride of their residence and agree to pay thirty-two thousand dollars for it, without ever having taken the trouble to look at the property either in person or by an agent. But farms lying in the vicinity of cities and villages were then so much in demand for the building of new towns that many persons thought it best not to hazard the loss of a bargain by stopping to look or inquire. They might better lose the little sum of $32,000 than be absent one whole day from Wall Street, and thus miss

the possible chance of purchasing the site of some other prospective city of much greater magnitude. Wonderful as it may seem to the next generation, such things did happen." In view of the speculation now going on, were the judge living now, he would only see a repetition of what happened in his own time. In that case the purchaser was relieved of his contract, the Court saying the credulity of the purchaser furnishes but a poor excuse for the falsehood and fraud of the seller; the latter will have no just ground for complaint if he is held responsible for his misconduct.

It is not every false affirmation of the vendor which will give the vendee an action, although he may be deceived by it. It often happens in the making of bargains that many things are said which neither party regards of much consequence; and if the buyer trusts to representations which were not calculated to impress upon a man of ordinary prudence; or if he neglects the means of information easily within his reach, it is better that he should suffer the consequences of his own folly than to give him an action against the seller. It is difficult to lay down a general rule on this subject. It may be stated generally, however, that where it is impracticable for the purchaser to ascertain the truth upon investigation, or where the seller by his acts prevents a proper investigation on the part of the buyer, or the fact is within the personal knowledge of the seller, then the representations are material, and, if false, the purchaser will be relieved. If the broker is employed in an exchange to ascertain the rents of one of the parcels offered in trade, and the broker procures an erroneous statement thereof, though believing it to be true, which the principal relies on, and contracts to exchange the

property, but rescinds the contract after learning the facts, the broker is not entitled to commissions. Having employed the broker to ascertain the rents, the principal was under no obligation to make a personal investigation. The information obtained being of no value to the principal, he was misled thereby into executing a contract, which, because the misrepresentations were also chargeable to the owners of the other parcel, was not enforcible against the principal. To allow a broker to recover commissions on these facts would be inequitable and cannot be sustained on any principle of law, and it is immaterial that the error was unintentional and without fraud.

Rights of Principal

The principal has the right to demand from the broker his best efforts, and that he should be faithful and true to his employer, and exert every possible means and make the best possible efforts to serve his principal most advantageously. The relationship of principal and broker is one of trust and confidence, and from such relationship spring the rules governing the conduct of persons standing in similar positions. If an attorney is employed by a client in any litigation or other business, it is expected that he protect his client, and any betrayal of his trust is visited with the severest punishment. So, in every other employment, the employee, if he desires to succeed, owes his allegiance to his employer. If I employ a broker and pay him for his service, I am entitled to the benefit of his knowledge, experience and any information he procures or possesses. It is his duty to sell my property for the very highest price he can procure. If

the broker has any knowledge or information that a particular parcel owned by me is desired for a particular purpose, it is his duty to impart that information to me. If, for instance, a railroad company needs a large tract of land for the purpose of a station or other improvement, and the broker knows that the company has or is about to purchase adjoining property, if he expects to be paid by me for selling my property, it is his duty to impart that information. An agent is held to the utmost good faith in his dealings with his principal. If he acts adversely to his employer in any part of the transaction, or omits to disclose any interest which would naturally influence his conduct in dealing with the subject of the employment, it is such a fraud upon his principal as forfeits any right to compensation for his services.—Murray vs. Beard, 102 N. Y., 505.

If an agent acts adversely to his employer in any part of the transaction, or omits to disclose any interest which would naturally influence his conduct in dealing with the subject of the employment, it amounts to such a fraud upon the principal as to forfeit any right to compensation for services. It is an elementary principle that an agent cannot take upon himself incompatible duties or act in a transaction in which he has adverse interest or employment. In such a case he must necessarily be unfaithful to one or the other, as the duties which he owes his respective principal are conflicting and incapable of faithful performance by the same person. If he is the owner himself or has an interest in the property which he offers he cannot claim any compensation. And if he is in reality the purchaser, although the transaction is done through a third person, the owner, upon obtaining the truth, may rescind, and the broker

forfeits all compensation. In one case a lady acquired title to certain premises at a foreclosure sale. She entrusted a broker who had done business for her to collect the rents, and at the same time authorized him to sell the premises. Offers had been made for the property, which the broker advised her to decline. After a while the broker informed her that one Jones would purchase the property for $10,000, and the broker urged her to accept this offer; she finally consented to make the sale and entered into a written contract with Jones, whereby she agreed to sell for $10,000. The deed was taken in the name of the broker instead of Jones, and a mortgage was executed by the broker and retained by him to be placed on record. The owner claimed that she was cheated, that she did not know she was selling the property to the broker, but supposed that Jones was the grantee. She brought an action to rescind the sale and the deed was set aside.—Clark vs. Bird, 66 App. Div., 284.

Double Employment

Naturally following from the principles above laid down is the doctrine that a broker is not entitled to compensation from both principals, without their knowledge and consent. This state of affairs arises most frequently in cases of exchange of property between different owners, where one broker represents both parties. If the broker in such a case is invested with the least discretion by either party he cannot accept compensation from both without the consent and knowledge of both principals. The rules of law are well settled upon this subject and have already been referred to. There are, however, a class of men who are distinguished from brokers, at

least in the law, to which this rule of law does not apply. These are known as middlemen, and their duties are clearly distinguished from those of an ordinary broker. A middleman may be defined to be one who is employed by both parties, not for the purpose of effecting a sale, or consummating a deal, but solely for the purpose of bringing the parties together, or of opening negotiations between prospective buyers and sellers. Having accomplished this purpose, his functions are ended and his compensation is earned; the amount thereof is generally fixed by preliminary agreement. It will be observed that there is a marked distinction between the two vocations. In the case of a middleman, he is not invested with any discretion whatever; he is not employed to fix the price or terms, or effect the sale. All of these elements are left for the principals to work out themselves. Of course, in such case the rule preventing compensation from both parties cannot apply, because the principals are dealing directly with each other, and no relation of trust or confidence has been established between the middleman and principal and there can be no act done by the agent detrimental to either party.

It is often very difficult to determine where the relationship of broker ends and that of middleman arises. As a middleman sometimes undertakes to go further than he was requested, or than he started out to do, and takes part in the negotiations, it is under these circumstances that uncertainty arises. The whole matter depends upon the character of his employment. If A is employed by B to find for him a purchaser for his house, upon terms and conditions to be determined by B, when he meets a purchaser, I can see nothing improper or inconsistent with any duty he owes B for A to accept an employment

from C, to find one to sell his house to C upon terms which they may agree upon when they meet; and there is no violation of duty in such case in agreeing for commissions from each party, upon a bargain being struck, or in failing to notify each party of his employment by the other. The main question in each case is, was the agent invested with any discretion, and did the principal rely in any manner upon his judgment or skill or confidence. If the latter should be the case, he cannot act for both parties.

Options

An option is a privilege which the owners give to a person to purchase the premises at a certain price and on certain terms. If nothing is paid for an option either in money or other consideration it is void, and under no circumstances is a broker entitled to a commission for procuring an option, unless the same is valid, or is finally consummated by a sale. It often happens that negotiations are apparently ended, and no time or opportunity is available to embody the terms in a precise and definite form, and a small deposit is paid to bind the bargain. If under such circumstances all of the terms and conditions are fully determined and settled upon, the refusal of the owner to enter into a formal contract cannot deprive the broker of his compensation. But if any of the terms are left in doubt or to be subject to further consideration, the taking of the deposit and giving of an informal receipt avails nothing, as the parties have not yet arrived at that stage of the meeting of the minds of the contracting parties which the law calls for. Thus, in one case negotiations had been going on for some time; the parties finally came to a bargain and the owner

received a deposit of fifty dollars and gave a receipt in the following form:

June 6th, 1902.

Received from J. M. Johnson the sum of Fifty dollars on account of contract, price of $25,000 on the sale of premises No. 264 Delancey Street, $950 to be paid on June 7th and $24,000 on the delivery of the deed, the contract to be made at office of vendors' attorney, June 7th, at 12 o'clock noon.

The intending purchaser never made any further payment nor even entered into a written contract, and the owner was notified that the purchaser would not make any further payment. The receipt was signed by the owner only. It contained no obligation on the part of the purchaser whatever. The Court held that the receipt was a nullity and did not amount to a contract and could not be enforced by the vendor and was a mere option to purchase and the broker was not entitled to any compensation.

In another case the parties, after negotiating for some time, finally agreed upon the price and an instrument was drawn whereby the owner agreed to sell the premises at $34,000 and the purchaser agreed to buy them at that price. The sum of fifty dollars was paid to the vendor to bind the contract, which was to be executed at the office of the vendors' attorney, at which time $1,000 addition was to be paid, $8,500 was to be paid on the delivery of the deed and $25,000 in a purchase money mortgage. This agreement was signed by both parties, the seller and the purchaser. Subsequently the parties met at the office of the vendors' attorney to enter into a formal contract and were unable to agree upon the terms of the mortgage, and thereupon the purchaser

refused to enter into any further contract, and the negotiations were broken off and were never resumed. The question arose whether the said written instrument, of itself, was or was not an enforcible contract for the sale and purchase of the real estate therein referred to. It was held that it was not a contract upon which the vendors could rest an action to compel the vendee to perform, but was merely, at least so far as the vendee was concerned, an agreement that he would thereafter execute a contract to purchase or forfeit the fifty dollars as liquidated damages. In other words, the vendors gave to the vendee an option, good until the meeting at which the contract was to be executed, and the paper did not constitute a contract enforcible against the vendee, because it was too indefinite in its terms. It was not stated how long the mortgage was to run, one, two or three years; what rate of interest it should contain, and how payable, quarterly, semi-annually, annually, or at the end of the term. Until the parties had agreed upon these details, it would be impossible to draw such mortgage. No court would have jurisdiction to determine it for them. And upon the whole case it was decided that the broker never procured a complete meeting of the minds of both vendor and vendee, either in writing or by parol, or part one and part the other, and that consequently he had never earned his commissions.

The Responsibility of the Purchaser

We have seen that the broker is obliged to produce a customer ready, willing and able to comply with the terms prescribed by the vendor. This brings up for discussion the question whether the broker is entitled to

compensation in a case where the vendor has entered into a contract with a purchaser who afterwards turns out to be financially irresponsible. As a general rule, it may be stated that where the vendor enters into a contract legally binding upon both parties and the broker has been innocent of any misrepresentations of the responsibility of the purchaser, his commission is earned, no matter how worthless the purchaser may be; and that it is the duty of the principal to be on guard and ascertain the financial standing and ability of the party with whom he is dealing. In a late case the broker effected a sale, which culminated in the execution of a valid contract between the owner and the purchaser. The latter paid to the owner on account of the sale the sum of fifty dollars, the purchase price being ten thousand dollars, and the contract was actually delivered and was in proper form and enforcible by either party. The purchaser failed to carry out the conditions of the contract, and suit was brought against him by the owner for damages, and judgment was obtained against him, which was uncollectable, the purchaser being financially irresponsible. The broker sued the owner for his commission. The Court held that where the contract was executed between the employer and the purchaser the right of the broker to his commissions does not depend upon the performance of the contract by the purchaser. If, from a defect in the title of the vendor or from a refusal to consummate the contract upon the part of the purchaser for any reason attributable to the owner, the sale falls through, nevertheless, the broker is entitled to his commission, for the simple reason that he has performed his contract. The owner having entered into a contract with the purchaser and received fifty dollars

upon account of the sale is in no position to urge that the broker is not entitled to his compensation. The law fixes the time when the commissions are due as of the date when the broker produces to his principal a party with whom he contracts. His acceptance of the payment of fifty dollars upon the contract is sufficient in law to establish that the contract of sale was made, and that the broker had performed his part of the contract and was entitled to his commission.

The Compensation

It often happens that after the negotiations have ended satisfactorily to the owner, and the parties are about to enter into a contract, the owner holds up the broker by endeavoring to procure a reduction in the commission and refuses to enter into a contract unless such concession is made. It may be stated, as a general rule, that if the broker, under such circumstances, makes a reduction and it turns out that the contract would have been made without such reduction having been acquiesced in, such modification of the original contract for commission made with the owner is without any consideration in law and is void, and the broker is entitled to his full commission. And this is so not only in the case of a reduction in the amount of compensation, but also in the case of an agreement made under similar circumstances that the compensation should not be paid until the delivery of the deed, and if it happens that the deed, by reason of any fault of the vendor, is not delivered, the broker, notwithstanding the agreement made by him, is entitled to his compensation. If the owner desires to protect himself against any such contingency, he must,

in the first instance and before negotiations are started, make an agreement with the broker that the sale shall be conditioned on the broker waiving commissions in case the deed is not delivered, and even in such case the broker is entitled to his compensation if the consummation of the contract fails by reason of a defect in the title of the vendor or other fault on his part.

In conclusion we desire to state that we have endeavored to present in a cursory way but few of the many questions that may arise between broker and principal. Many of these questions may be avoided by a little care and investigation on the part of both parties. A person engaged in the real estate business, as a rule, acts equitably and fairly to the broker; his assistance is absolutely necessary to the profitable carrying on of his business, and he cannot afford to resist payment on technical grounds. And a reputable broker also realizes that he cannot gain the confidence and good will of an owner by harassing and annoying him with unjustifiable demands.

LEASING

ALBERT B. ASHFORTH

Machinery of Leasing—Information Systems—Danger of Delay—Nature of References—Written Agreements—Commission Versus Salary—General Knowledge Essential—On Starting for One's Self

To be an expert in the leasing of property, whether for residence or business purposes, one must be equipped with that happy faculty of quick perception in appreciating the requirements of the individual and must also know how to exercise more than usual tact in bringing together the two sides in a transaction.

The usual *modus operandi* employed by brokers at the present time is:

1st:—Developing the listing department of their business, so that a complete memorandum of everything to rent in what they consider their district is on their files.

2nd:—Placing as far as possible their "To let" or "To lease" signs on the properties.

3rd:—Using every facility the records may give and the information that a *thorough* canvass will develop to make a list of expirations of leases in a special book.

This book should be made up somewhat as follows:

Date Expira'n	Address	Tenant	Line Business	Space Used	Size	Rent	Remarks

Under heading *Remarks,* as full details as possible should be noted as to possible requirements or any other

interesting facts connected with the possible wants of the prospective tenant.

With such a record equipment it should be possible to pick up many a good commission. The tenants on your list should be seen *at least six months* prior to the expiration of their leases, as most businesses must make arrangements for trade that far or even farther ahead.

Nothing is so exasperating as to call on a tenant three months prior to the expiration of his lease—the time for him to notify his landlord whether or not he wishes to renew—only to learn that he has leased two months ago such and such a place for a long period of years, perhaps the very property you had on your books and thought to offer.

The hardest lesson for the beginner in the leasing department of the real estate business to get through his head is to so far restrain his enthusiasm that every representation he makes to a tenant is a fact that can be verified. Many a young and promising broker has lost a situation and embarrassed his employer by informing the tenant in an offhand way, without wrong intention, and merely through over-zealousness to make a commission, that "The landlord will do anything you want in the way of repairs, alterations, etc."

Every application for rent should be taken down on a sheet supplied for that purpose, made up on the following lines:

APPLICATION SHEET

M .....

(Full name of individual or all the names of a firm, not forgetting to spell out first names in full. If incorporated, under the laws of what State organized.)

OF .....

(Address)

APPLIES FOR .....

(Description of premises)

OCCUPATION .....

(Describe line of business)

FOR .....

(Period of lease)

FROM ..... TO .....

(Beginning of lease) (Expiration of lease)

AT ..... PAYABLE .....

(Annual rent) (How)

REFERENCE:

MR. .....

(Address) .....

MR. .....

(Address) .....

MR. .....

(Address) .....

On References

First of all be sure to secure a former landlord as a reference, for here you obtain the best information as to responsibility and respectability, and in most cases the reference is not prejudiced by the fact of the landlord's being a personal friend of the prospective lessee.

There are, of course, cases where a landlord's reference cannot be relied upon. Where the landlord and tenant have been unable to agree, an unsatisfactory reference may be received, and a prospective tenant should not be refused on this fact until you are thoroughly convinced by other references that you are negotiating with an unsatisfactory party. Most tenants, particularly in the case of private house lessees, will refer you to their clergyman, doctor or lawyer. As a rule, these references should be avoided, and the name of some bank or person with whom your tenant has transacted business should be required.

As a special warning! If your tenant's reference proves unsatisfactory, so that you decline his application, above all things, do not state for what reason. Simply say: "Your application for such and such property is declined." Suits for defamation of character have been tried on the statement of an employee that an application is declined because the prospective tenant is a gambler or disreputable. Don't forget you might be compelled to prove it. *Beware of the married woman* who has to sign a lease in the absence of her husband, because the husband is a traveling man and cannot be reached. Have the landlord approve the references you have looked up, or, better still, if possible, get him to look them up before you have your lease executed.

Leave nothing out of your lease about which there is a chance of the slightest misunderstanding. Make a list *in writing* of any repairs or alterations that may be agreed upon and have the same signed by both parties and let it accompany the lease.

Commission versus Salary

In many large brokerage offices the younger men are left to their own resources. Most of them work on the commission basis, the usual arrangement being one-third of the total commissions received to the clerk, two-thirds to the firm by which he is employed. To a hustling man the greatest opportunity is here offered and his earning capacity is greatly increased over the salary basis. An incentive is offered on this basis for a greater effort, and in a way he has a part interest in the business.

Some men have come under my notice who have been employed on a commission basis who have earned for themselves in a year as high as $25,000. The average man, I would say, can earn from $1,000 to $5,000 on a 33 1-3 per cent commission.

If you secure a position on this basis with a reputable firm, let me warn you not to be carried away should you be fortunate enough by consummating, in the early days, a large transaction. Many a man has been spoiled through unusual success at the start; he imagines that he can keep up this record. This sometimes happens—but, when luck changes and it is not his good fortune to close another deal within a month or so, he is liable to be discouraged. Many months may follow during which he may be unable to close a transaction. Do not give up. Keep hammering and hammering away, and

you are bound to win out. A customer or lessee may bob up months after you have called and tried to interest him in moving, and the result may be a commission.

Personality

Personality plays a very important part in your success. Get close to your client, whether landlord or tenant, impress him with your integrity, and let him understand that you have *his* interests at heart and that by making his transaction through you he is assured of the best possible deal. After you close the transaction, do not leave your customer to his own devices; call upon him and see that he is satisfied; see that the repairs he has asked for are done for him, and in every way make him a satisfied customer.

The best possible advertisement is the recommendation of a man you have already done business with and satisfied. I have often found, through some unknown reason, that I was unable to ingratiate myself with a possible tenant at the first two or three meetings, but by continued effort and by offering him something that has not been thought of by somebody else, I have been able to make him a friend. Though I may not have made a commission on the particular transaction, I have, at least, not made an enemy, and the chances are that my efforts may result in a transaction with some friend of this very man.

Do not waste too much time on people where you question their sincerity. After you have had experience, you will be able to choose the people on whom you must devote the greatest amount of energy.

General Realty Knowledge Valuable

Keep yourself posted in every department of the real estate business. Do not think, just because you are leasing property, that it is not necessary to be familiar with what property is selling for and the values in all neighborhoods. It sometimes happens that when you call upon a man to interest him in a lease he will ask you if you have anything to offer either in the way of a private house or in the way of a purchase. You should be ready to answer him and give him a general idea of values and what his rent would cost him in the event of his purchasing a piece of property for occupancy, instead of leasing.

Familiarize yourself with the best locations for certain lines of trade. When you have a business property in a particular location that is desirable for a certain line of business, call upon everyone in this line of business and try to interest him in the property. For instance, we will say you interest a large concern in the piano business in a piece of property in a certain location, and close a lease with them; all other concerns of a like nature should be interviewed immediately, and in all probability you will secure another customer through your original lease.

On Starting One's Own Business

In closing let me say that if you are in a good situation and earning a fair compensation, and with a growing concern, do not be too ambitious to start in business for yourself with an idea that you can make more money. I have known a good many men earning from $5,000 to $10,000 a year with prominent concerns who

have started in business for themselves. Very few of them succeed. You do not get the consideration from operators, speculators and investors, when you present your own card, that you do as a representative of a long-established and reliable real estate concern. Besides, speculators are not apt to give you the same consideration in commissions that they gave in your old employment. They will want to dicker, want you to divide or pay a commission to some one of their friends, and you have not the backing, nor the capital, to permit of your refusal. Your financial results, therefore, are liable to be very much less than before you started for yourself. In addition, you have the expense of maintaining an office and at least an office boy and a stenographer, which must be deducted from your earnings.

If, however, you are able to secure the agency for a number of properties that will pay your office expenses and give you a slight recompense besides, I would not wish to advise you not to start for yourself. But many men give up a fine position and eventually are forced to return to employment.

MANAGEMENT OF APARTMENT AND TENEMENT PROPERTY

RANSOM E. WILCOX

Real Management and What it Implies—Importance of Good Construction—Impossible to Make Poor House a Good One—The Owner and His Attitude—Agents and Tenants—Repairs

CARE of tenement property is an important and very considerable branch of the business in this crowded city. The high price of land has made necessary the using of every possible portion of it, and the multiplication of it in floors one above the other, resulting, so far as places of residence are concerned, in the three-family house, the single flat, the double flat, the triple flat, the "double-decker," the apartment house, etc.—all of which are tenement houses. A great majority of all the people living in Manhattan must be dwellers in apartment houses. Any real estate concern on this island, except perhaps in a small portion of its southern end, that gives much attention to the management of property will presently find that the bulk of its business in that line is the care of tenement houses of one kind and another.

Is not almost anybody and everybody qualified to manage tenement property without study? The answer depends on our understanding of what is involved in the word "manage." A boy may ring a doorbell and ask

a woman for her rent, and, when it is paid, bring it to the owner. A stupid man may storm his way through a tenement house, denying all requests for attention to necessary matters and go out of the door with every tenant's monthly payment in his pocket. Are these therefore qualified real estate agents?

We have many such, and our real estate seas are strewn with wrecks of investments that under better management would bring their owners satisfactory increases and profits. Many tenement houses wisely planned and well constructed have failed as investments because they have never had a chance. They have borne too heavy a load. If $200 net is the right earning power of a house and you insist on getting $250, you may succeed for a year or two, but only at the cost of the property. It will reckon with you for far more than you have gained. If a property well-designed and placed for select small families in the stress of some poor season is offered to a less desirable class of tenants, you will miss achieving the best the house can do and, in the end, score failure.

Three Elements

There are at least three elements necessary to the best success in the management of property—good houses, wise owners, skilful agents. Let us look at these separately and in this order.

A man about to purchase for investment will observe the locality with great care, weigh the chances for permanence and increase, give some attention to the plan of the apartment and then haggle over the price, having scarcely thought whether the material and workmanship

are such as will tend to permanence and economy. If the house appears to stand up straight and the front door and hall are attractive, he thinks it is a good building. Even loaning concerns who take first mortgages on tenements are negligent upon this point. Hundreds of tenement houses are put upon the market in this city, in every building period, which are constructed so poorly they can never be made to pay—so much of the earnings must go constantly to hold the building together. At intervals must come expensive overhaulings and reenforcement.

A good house can never be made out of a poor one. Tenement houses are artificial and complicated structures. At their very best it costs a great deal of money to preserve them. Probably not one per cent of our tenement houses are erected by the parties who intend to hold them. Much of our ordinary five and six story tenement construction is not put up by builders, but by speculators, and irresponsible speculators at that. They are adepts in nothing but in making a little go a long way, and a very poor thing look for a time as if it were good. A buyer's eyes are so dazzled with the mahogany and marble of the vestibule and the embossed plush with which the halls are hung, that he cannot see that the floors of the house are out of level, that the doors do not fit, and that scanty and poor labor and material are everywhere in evidence. There is such a fine polish on the parlor mantel that he does not see that the balance of the woodwork has not received a particle of sandpapering since it left the mill, and very likely only one coat of cheap varnish. A skilful agent must have a discerning eye for these things. When a client seeks his opinion let him not be swerved by the prospective

commission. A reputation for reliable dealing in such matters is worth money in the trade.

No man without experience should purchase a piece of improved real estate, even for speculation, without disinterested professional advice. It costs but ten dollars to get an appraisement on an ordinary tenement. We ought to advise our clients oftener than we do to have prospective purchases appraised.

Importance of Sound Buildings

If buyers of real estate were more discriminating, it would not be possible to market so much badly built property. The speculative craze is at the bottom of much of the trouble. Ground available for improvement is so high, the cost of material and labor so advanced, that only the very skilful can use the best and make a profit. The ordinary speculative builder, paying a high price for his ground and an unreasonable bonus for his building loan, must recoup by scanting the weight and quality of his material, pinching his contractors to a figure where it will be impossible for them to do an honest job, glossing over imperfections with eye-catching tricks, and trusting to the glib mouth of the salesman. New York is a large place, most men make but few investments in a lifetime, and by the time a man has learned wisdom in these things he is either old enough to die, or too poor to try another venture. Let us try to educate our clients to know the difference between the good and the poor. Let it be known in the trade that we are not interested in worthless property, and that it cannot be sold to them whom we advise.

There is fine productive tenement property built and

sold every year. Some of it goes into the hands of parties who will not manage it themselves and who will retain it for permanent investment. Such property is worth seeking. The more you get of it the more you can get. If you push your efforts wisely and persistently your office will presently have a reputation as a place where good things can be had, and this will be of value to you not only in getting property to manage, but in keeping it well tenanted afterward. Pay particular attention to property that is held for permanent investment. There may be some glory but there is little profit in filling up a block of new tenements only to have it sold away from you as soon as it is on a paying basis. As between an occasional chance at a speculator and an opportunity to serve a permanent investor, pay court to the latter always.

The Wise Owner

The second essential to success in the management of property is the wise owner. Let it be remembered first of all that the agent is the instrument for the accomplishment of the owner's will. It is the owner's right to pursue with his property what course he pleases. He may desire it to be managed on liberal lines, giving good tenants practically whatever they want in the nature of repairs, keeping the property in the best of condition, installing new and up-to-date appointments as fast as they are discovered and approved. Many owners make money by this method.

Other owners will pursue quite an opposite course. They conceive that every dollar spent upon the property is so much withdrawn from their legitimate income. To them the tenant who wants repairs is a destructive enemy.

They will sometimes insist that nothing whatever be expended during long periods. Such men usually exact the highest rent possible to obtain, often overreaching and injuring their own interests by these methods.

Whatever attitude the owner takes upon these and kindred questions, it is the agent's business to stand with him and, if he can, execute his will. Let him fairly and plainly show the owner the consequences of an unwise course, exhibit the success of those who follow different methods, and thus bring him if possible to a saner and more healthful view, but let him go no further than he can carry the owner with him. The groundwork of a successful relation between principal and agent is confidence on the part of the principal and loyalty on the part of the agent.

Agents should observe each individual owner with care, and patiently develop his thought toward himself and the enterprises in which they are mutually interested. Teach the overindulgent and too liberal owner to curb his natural propensity and to hold what he has with a tighter fist. Teach if you can the one who goes to the opposite extreme that he but robs himself. Teach the owner who regards his tenants as his natural enemies that his interests and theirs run in parallel lines. When you have shown an owner that he can trust you, insist on his pursuing such a course as does not discredit you with the tenants and the men employed about the property. Let his orders be given through you. The wise owner will magnify the importance of his agent. When he finds himself desiring not to do so, he had better discharge him. Contrariwise, the agent, if he presently finds that he cannot do so and maintain his self-respect, will resign.

The Successful Agent

Let us come now to the third essential to success in tenement house management—the skilful agent. Let the skilful agent respect his vocation as manager of property and believe that it has excellent possibilities. It provides a steady income and supports an office force and equipment for an all-round business. Booms may wax and wane, dull periods may continue long, the agent who has a good line of property has little occasion to worry. Industrial depressions may come when rentals depreciate and incomes shrink, but he need not fear. They will even work to his advantage, for then owners who in better times could manage their own property will want his professional skill and assistance. It is a good preparation for any special line of real estate work that one may desire later to follow. Men with enviable reputations have laid the foundations of their fortunes in the care and management of property, much of it of the tenement kind. An agent who has managed a varied line of property in any locality should know the needs and possibilities of that section along real estate lines better than anyone else. A very profitable class of real estate work is the appraising of property. A great volume of it is carried on constantly. The city is all the while taking property for public uses. Estates have to be appraised for the collateral inheritance tax. Large properties are often involved in litigation. Men that can value them correctly and maintain their values under severe cross-questioning are sought and well paid. Then there is a mass of appraising for loans and purchases. There is no better preparation for an appraiser than to have managed a variety of property. To be able to

discern the earning power of property is to unlock the very secrets of its value, for, in the last analysis, property is valuable in proportion to what it will earn.

Again, the manager of property becomes familiar with much connected with the building business. A volume of repairs is passing under his supervision all the time. Sometimes expensive overhauling will be done under his direction. Rebuilding after fires will have to be supervised. All this work enlarges his knowledge of real estate.

The acquaintance one makes managing property, if one has a good measure of success, is a valuable asset. Any office with a successful period of managing property behind it comes to have clients who will not purchase nor sell except upon its advice. If this relation is skilfully maintained, such an office comes to have an advantage over all others in marketing, in good times, the properties it has put upon its books. There can be no doubt that the managing of investment property is the best preparation and foundation for a broad and successful real estate business.

Importance of Detail

The only way to know the whole business is to begin at the bottom. There is a mass of trying details connected with the faithful care of tenement property. You cannot at first put this off on others. You will sometimes make a hundred dollars with very little effort, and the next day you will have to vex and weary yourself over the expenditure for some client—of $5 or perhaps 5 cents. Your eventual success will depend not a little on your being able to attend skilfully to a great

number of uninteresting details, each a trifle in itself, but any one of which going wrong may be the cause of serious dissatisfaction. It may seem a trifling thing for you to go into the prices of small supplies and the cost of small repairs, but you must know these things and be constant master of the means and method by which they are attended to in your properties. In managing tenement houses, eternal vigilance alone will secure immunity from a host of errors, pitfalls, and losses that will otherwise be your undoing.

In respect to necessary expense connected with your properties, I can give one direction that will be worth all others combined. Consult freely with the owner. This is the owner's right; it is also your safety. It is especially necessary with regard to expenses. When you expend what is necessary to keep his property in condition and set it all down for his perusal, rendering a voucher for every item, little or large, as you of course will, the chances are that you will surprise and disappoint him. If it is his first experience he may sacrifice you after a year or two in an experiment to see if it cannot be done for less money. Therefore divide responsibility with him at every step if he will permit you. Most men want to be consulted, especially until they find that their agent is entirely safe. Before agreeing to do some needed repair or renewing or improving some appointment of the property get his views and consent; show him as nearly as possible to what it will lead. See if he has not some man whom he would like you to employ, or who will give you an estimate. He will presently find, probably, that men will bid lower for you than they will for him. The volume of your work makes you a desirable customer.

Study the needs of your houses and get a long view of them. You may see some way to improve them. Talk with the owner about these and make use of his suggestions. Something has been said about the tiresome and exacting detail of this business. These conferences with the owner will brace you up and prevent your tiring of and neglecting these matters that seem trifling, but that in the aggregate mean so much for the success of your undertaking. These conferences will not always be pleasant. Sometimes an owner has cause for discouragement and possibly distrust. Let there be no situation or transaction that you are not ready to face. Have no matters that must be concealed. It will be hard enough to satisfy him when things are right, without following questionable courses. I have used the masculine gender here in speaking of owners. Some of your most difficult cases will be with the ladies. Some of them will place full confidence in you. Some are nervous, some naturally suspicious, some ignorant; and this applies to the men as well as to the women. However, most of the owners whom you try to serve faithfully will be your friends.

Tenant and Agent

The relation between a right-minded agent and his tenants should be pleasant. When any considerable number of the latter are saying harsh and discreditable things, there is something wrong. An agent condemned by any large proportion of his tenants is not in a position to serve his principal to the best advantage. Some have conceived that the interests of the owner and the tenants are opposed to each other and that the only way to be

loyal to the one is to antagonize the other. Other agents fully intend to be just and considerate, but permit themselves, under the stress of business, to forget and to neglect that which they fully intended should be done. The agent occupies a difficult position between the owner and his tenant. In times when renting is bad landlords bid high for good tenants, and thus inculcate in them the notion that they must have many indulgences and much attention. Thus, to deal fairly between the landlords, both the greedy and the reasonable, on the one side, and the tenants, both the wasteful and the worthy, on the other side, is no easy matter. You will find it of great advantage to look differences and obstacles squarely in the face, and if you can decide promptly what should be done, and live up to it, much trouble will be avoided. To pursue a waiting policy is ordinarily worse than useless. A prompt "No" with a fair statement of the reason is infinitely better than a hope encouraged only to be finally denied. Your time and thought are too valuable to yourself to use them over and over on the same small matters, and your tenants will soon discover in you and greatly appreciate a business-like treatment of every question.

A very important part of the work of the agent is the collection of the rent. If you have to do the collecting yourself for a few months or years, it will be an experience that will be valuable to you ever afterwards in the management of property. A skilful collector can make a good payer out of a poor one, and a neglectful and foolish collector can bring forth a new brood of bad payers in a very short time. Not all tenants can pay on the first of the month. If you have many, you cannot reach all on the first of the month.

You should reach all within a very few days of that time. After that, it is chiefly a matter of knowledge when the tenant can pay, of her knowing when to expect you, and of your always being there at the appointed time. Let poor payers know long beforehand what they are expected to do, and your way will be easier and your success surer.

Teach your employees to be what you want to be yourself, and to follow your methods and ideals. Your janitors, cleaners, engineers, hall boys, elevator runners and clerks, all ought to work for your success. If they are wisely selected, treated with respect, rightly supervised and encouraged, they will presently like you and work for you. Since so much of what is to be done depends upon them, let them feel their responsibility. Help them to magnify their positions if they are worthy to hold them, and repress those that are too officious. The janitor is a very important matter in a tenement house. The tenants should like him and use him well. The janitor joke, like the mother-in-law joke, is badly overworked. It is possible to get painstaking men and women in these positions. In a cheap tenement, where the rents are, say, $10 to $15, your janitor will sometimes be the best man or woman in the house, economically and socially. It is a good thing if it is so. If he has some executive ability, it will be of value to you. He ought to have some mechanical sense, and be handy at repairs. If you can get work done by employees paid by the month, and thus save mechanics' day wages, it will be of considerable advantage to the property.

Enough has been said to make it plain that the business of managing tenement property will bear some study, and that it is worth undertaking for its rewards and

emoluments. Do not let the small cares and burdens of your business, no matter how successful it is, consume all your time and strength. Save some portion of your office hours for attention to larger things than these that press immediately upon you. The agent can be a slave to the petty exactions of his duties with no wider horizon than the farmer who only plods. Take time to see what is going on about you, what others are doing, what new thing you may try for. Catch the movements of trade and improvement in the whole town, and in other towns, try to discern their causes and find some place in them for a new effort of your own. Take the *Record and Guide* and read not only its gossip but its discussions; meet with other men in the trade, and find out what they are thinking about, and what your own opinions are on these matters. In these things there is for you business enlargement and growth, and also increase in all those qualities and acquisitions that challenge the esteem of men.

MANAGEMENT OF LOFT PROPERTY

EDWIN H. HESS

Collecting Ability Not Everything—Extensive Special Knowledge Required—Familiarity with Neighborhood—Repairs—Danger of Quibbling—Insurance—Selling and Appraising—Getting and Keeping Tenants

In the management of business buildings—commonly known as loft properties—the up-to-date broker has need for highly specialized knowledge in many fields. The mere ability to collect rents is not enough. For in the last twenty-five years the nature of loft property has so changed that the manager of to-day, in addition to being thoroughly posted on general real estate conditions, must have no little knowledge in mechanical and technical fields. A quarter of a century ago there was less competition, and tenants sought the agent. To-day there is the keenest competition in this field, and the agent must seek the tenant and be able to show that his building, in arrangement, appliances, service, light and air, is peculiarly adapted to that tenant's special line of business. Where stairs, coal stoves and the cheapest form of lavatory were satisfactory a few years ago, tenants to-day demand high-power elevators, steam heat, elaborate plumbing and service.

The property manager of to-day must be able to advise his clients in their buying and selling and moreover, if there is a proposal to erect a loft building, must be able to tell his client how to arrange that building at once to attract the class of tenants normal to that neighborhood, and also yield a fair return. Lastly, he must be able to keep his buildings in proper repair and see that they are operated from the point of view of the tenant, as well as with due consideration of the owner's bank account.

Knowledge of District

To carry out these several different branches, it is of prime importance that the broker know his territory like a book. He must be an expert on values, both absolute and based on rentals. He naturally must be thoroughly familiar with prevailing rents; must know, at first hand, not a little about practical construction and repairs. Knowledge of mortgaging and financing also is important. He must be able to advise on matters of insurance—fire, liability, elevator, rental, plate-glass insurance. And, of course, he must be able to rent—to find tenants, to keep track for years of prospective occupants—and to hold tenants when he has good ones. This all implies tact and sound judgment, absolute system and the willingness to keep everlastingly at it. For owners—particularly those who inherit the property—rarely have the necessary unbiased point of view to manage their own buildings successfully.

Special Trades

The broker, for example, is often asked to advise on certain loft improvements. The architect, if left to him-

self, would probably put up a handsome, safe building, and yet this loft structure, which might be ideal for a neighborhood a few blocks to the north, might have certain defects of arrangement which would greatly lessen its value for the special forms of business centering about its site. For, nowadays, certain neighborhoods are practically monopolized by certain lines of trade, and tenants must be recruited from those special forms of manufacturing and importing. A business building not suited to the trade of its district, therefore, might prove to be a white elephant until at some future time the character of the neighborhood changed. Similarly, the architect might plan fittings and decorations which would not hold up well for that class of occupant, although just the thing for an office building where little freight is handled. Again, light and air might not be accurately adapted for neighborhood trade. Or the elevators might be of too expensive a pattern, or the heating apparatus such as to involve enormous coal bills. It follows, then, that the real manager must know the character of the neighborhood, and, as there are frequent migrations, be able to foresee either the coming of a better or a poorer class of tenants. In addition, he must know how the neighborhood business is run, at least as far as its requirements of floor space and arrangement are concerned. He must know what elevators are necessary and how to lay out a building which under the expected occupancy will be economical to clean, operate and keep up.

Here are some of the things that the broker must know about neighborhood trades:

1. Certain businesses do not mix well in one building. For example, importers and cloak manufacturers do not

like to be in the same building. The importers, because of their bigger profits and the class of goods they handle, commonly are able to pay higher rents. Their help is of a different class; the people who come to their warerooms are different. Consequently, they do not like to be in the same building with certain classes of manufacturers who hire cheap help which hang around the halls and sidewalk and crowd the elevators at certain hours.

2. Different businesses require different light arrangement. For example, windows and exposure that would be ideal for a hat room would not do at all for a dealer in precious stones.

3. Different businesses require different elevator service. Some have their rush hours in the early morning, at noon and at different closing hours.

4. Some regard mail chutes and fine sanitary conveniences as absolutely essential. Others do not care so much about these points.

5. Each business has its own system of furnishing and equipping its offices and workrooms. Naturally, the man who wants to use show cases needs a different sort of loft from the one who wishes to operate scores of power sewing machines.

In these connections, the number and character of elevators, the location of stairways, position of columns, height of ceilings, have an important bearing.

6. Some trades need heavy machinery, others do not; certain trades are hazardous from the fire risk, others are comparatively safe.

These eccentricities of the several trades or lines of business which form the normal renting constituency of a district all must be most carefully considered. For

on the building's adaptability to them depends its success and the nature of its rentals. When there is evidence that a special trade is migrating to a new district, the broker must keep his ear to the ground to learn what is to succeed it, and, if possible, get the cream of the new tenants.

Repairs

While the usual lease requires the tenant to make certain repairs and leaves others to the owner, it is not always the best of policy to hold strictly to the letter of the lease. This is particularly the case when failure to repair a defect may cause extensive damage either to another tenant or to the building itself. In a certain building there was a leak in one of the flush tanks, caused by the act of the tenant. The tenant was notified to fix it. He refused. The owner would not do anything, because the lease placed responsibility on the tenant. In a very short time the water had taken a strip of plaster 25x50 feet off the wall and had ruined a large quantity of merchandise belonging to the tenant below. A lawsuit followed, which was decided against the owner. If he had fixed the leak after the tenant's refusal, he would have had a case against the lessee for the cost of the repairs. Therefore, after a tenant's refusal to fix anything, whether it is in the lease or not, it is up to the owner to fix it. Then the owner can endeavor to recover from the tenant.

Plumbing must never be left unrepaired.

Boilers out of condition are dangerous to the building and its tenants.

Elevator machinery also should never be neglected. A car might run on for several weeks with a frayed

cable or some other faulty condition. Then again it might carry half a dozen people to death, through the negligence of those in charge of the building, and the liability, both moral and monetary, would be tremendous. In connection with elevator repairs in a busy building, it is frequently wise policy to have the changes made at night, even if the charge for night labor is higher. Few things irritate a tenant more than to have his business crippled for a day because the owner has allowed the elevator repairs, that could have been made at night, to go over until business hours.

In the case of all repairs, it is most important that the agent himself look after the property, inspect it personally every once in a while, and keep a definite picture of its condition in his mind. He should also have actual general knowledge, if not technical knowledge, of what repairs will cost, and be able to judge their real importance to the property. Good mechanics should be employed and proper materials used. Even if there be a competent superintendent, the agent should himself have a look at important repairs, and not rely wholly on reports of others. Naturally there should be the strictest economy, but where saving in this direction affects the building detrimentally, saving on repairs is really future extravagance. The agent, because he visits the property and knows the tenants, is generally a safer arbiter than the distant owner.

In case of petty repairs, it is sometimes good policy to make repairs whether the terms of the lease require you to do so or not. It pleases the tenant, because it saves him the time and trouble of hunting up a mechanic.

The practice of an agent's accepting a commission from contractors cannot be too strongly condemned. A

study of such bills will generally reveal the fact that the owner paid a fair price for the job plus the agent's commission from the contractor. It is far better for the agent to refuse the management of a building than to make a bid so low that he is forced to take a rake-off on repairs. Frequently agents, in competing to get a building, name too low a commission with the full expectation of making up on contractor's bills.

Insurance

The fire insurance rate which an owner is compelled to pay often can be reduced by certain inexpensive improvements or greatly lowered by proper structural arrangement when the building is planned. It, therefore, behooves the broker either to know these points himself or to employ an insurance man who knows them. Comparatively few people know that a loft which is very dusty and dirty, or which shows broken plaster may cause the insurance people to charge a higher rate. The installation of fire buckets or extinguishers may save the owner more in insurance in a single year than their total cost. In some cases, the providing of an extensive automatic sprinkler system may so lower a rate as to pay for itself very quickly. The fire record of a tenant is also an important factor. If a tenant whose fire record is bad is accepted it may raise the rate for the entire building and for all the other tenants. The broker should know about various forms of liability insurance and should not overlook the importance of rental insurance, which, after a fire, reimburses the owner for loss of rents while the building is being put back into shape.

Selling and Appraising

Selling, appraising, handling mortgages have all become functions of the modern loft-building agent. His clients frequently call upon him to handle their end of deals. If he is wise he will refuse to give advice on values in territories with which he is not thoroughly familiar. To advise in such matters in his own territory, the agent must keep track of all important sales, know the earning power of improved property and keep at hand full information about available land and other investments. In mortgage matters, he must know the prevailing rates, and where to apply for mortgages, and have a list of institutions and individuals willing to lend money on certain classes of property. Naturally, he must know whether the amount sought or asked for as a mortgage loan is reasonable or excessive.

Finding Tenants

Tenants no longer come to the agent and rent the property. He must go out for them and rent to them in the face of sharp competition. He must have records of expiring leases in other properties and see if he can induce tenants to move to his building. This involves canvassing hundreds of concerns. Work with a prospective tenant should begin at least six months before his lease expires. But in the rush to get tenants, the agent must not be short-sighted and take a tenant whose presence will make other tenants less satisfied or give the building a character which may affect its total rentals.

Keeping Tenants

Handling tenants requires great tact and sound judgment. Make your tenants your friends, safeguard their rights, don't draw too close a line in the matter of repairs. Distinguish between sluggish payers and habitually careless tenants. Handle dispossess proceedings with care. Sometimes tenants simply try to be dispossessed in order to get out of a building. In some cases it is wise to let the rent run over if a good tenant is temporarily out of cash and has prospects of coming around all right. If he has no money and no prospects, dispossess him. But if it can be avoided, do not dispossess a tenant until the renting season for the locality. If the tenant is honorable he will probably pay his rent eventually, and the majority of tenants want to be honorable.

In all of these matters remember that an owner who has suddenly inherited a property knows little about handling it. If not wisely guided, he is almost certain to make trouble with tenants or to be too lenient with them. The ideal owner is the man who has bought his property with hard-earned money. He has a broader knowledge of business men and business conditions.

MANAGEMENT OF DOWN-TOWN OFFICE BUILDINGS

JOEL S. DeSELDING

New Buildings—Manager's Relations with Owner and Architect — Value of Ornamentation — Advertising Quality of Great Structures—Neighborhood Influences—Getting and Keeping Tenants—Treatment of Public

MANAGEMENT of an office building frequently begins before the excavation for the foundations. The first lease is often signed before a single floor is laid. For the capable manager of office property is expected to-day to join forces with owner, engineer and architect in the very planning of the building. He must contribute to the consultations highly specialized information as to what qualities are necessary to make that building yield rents which, after expenses of maintenance are deducted, will give the proper net income on the investment. In this capacity, he acts as a safety valve on the architect's natural wish to create artistic effects. He must limit the cost of the projected building to a figure which will make it possible for the owner to gain the proper net returns. He must keep in mind such material and rent-influencing factors as cost of maintenance and cleaning, arrangement of floors and light and air. For, no matter how artistic the exterior, the entrance and the halls, the building will not bring

maximum rents if the offices are improperly arranged, the windows too few or too small, the elevator service and other conveniences inadequate. There is also a financial limit as to the class of office building that will pay in a particular section.

To advise wisely in these several particulars, the manager or agent must know the rental rates of the district. He must understand the class of tenants that can be induced to enter the new building, must be able to foresee if changes in the character of the neighborhood indicate a new class of business inhabitants able and willing to pay higher rents and therefore demanding better buildings. This, after all, is simply determining in advance the supply and demand, but as the offices will not be ready perhaps for a year or more, it often involves difficult anticipation. This condition does not apply so much to Broadway property as to the districts occupied largely by special lines of business. It is sometimes a very nice problem to anticipate the tenancy of a new office building with three or four hundred offices, erected in the center of a district apparently already fairly supplied with quarters.

Cost of Maintenance

On the detail side, such advice must be based on thorough practical knowledge of what it costs to man and clean a building, to maintain its elevators and heating and lighting plant. This involves knowledge of the pay roll of help of all sorts—superintendent, mechanics, engineers, janitors, scrubwomen, elevator men. Their number and kind are determined largely by the sort of service the building is to offer, and the kind of service

is determined by the class of building. Repairs and upkeep must be figured to a nicety; coal and even oil consumption computed in advance. When buildings cost from 40 cents to $1 a square foot to maintain, it can readily be seen that all items which add wastefully to the cost of upkeep must be eliminated—that every possible square foot be used for offices. A maintenance cost of $1 may be all right in a building where rentals are $2.50 a square foot, but a cost of even 75 cents for maintenance would be a bad proposition in offices renting for $1 a foot. The experienced manager, therefore, endeavors to eliminate features that will run up even the cost of keeping halls clean. For example, certain brass work on the front of a building may require the entire attention of a single man and his wages must come out of the gross rent account.

Limits of Artistic Effect

The manager, however, must not be considered a hopeless antagonist to artistic effect. No one appreciates better than he the value of exterior and interior ornamentation. But there is a limit to the use of art. A good exterior, to be sure, affects the rent. Of this exterior the most important part is the entrance and the first two or three stories. Above these, so long as the building is fine in appearance, the details of exterior grow less important because few people see them in our cañon-like streets. In the case of buildings like the Singer Building or the Metropolitan Tower, the same standards of criticism do not apply. Such buildings—the home offices of great companies—are built more as men build their own homes—with a view to what people

generally will think of them. In other words, they are constructed to have certain advertising quality, to be wonders for sightseers, landmarks in their city. Here decorative costs are not limited strictly to a prospective rental basis. And yet there is no question that the very advertising quality of such buildings enables them to demand higher rents. For it is undoubtedly of advantage to a tenant to be in a building known all over the world, where the address "Blank Building, United States," is sufficient. Moreover, the fact that every one has seen a picture of these buildings and knows that they are among the finest office buildings in the world, gives a tenant prestige when he writes to some one out of town. Also the tenant shares in the reputation of his landlord, for people are certain that such buildings would not tolerate tenants who were working dishonest mail order schemes. But in buildings which make no endeavor to become architectural wonders of the world, ornamentation must be kept in proper ratio, be as fine as rental profit permits. The same conditions apply to entrance halls, elevators, hallways. Simple though beautiful decorations are wise in one building, expensive marble, bronze, brass, mural work are necessary in another. Economy or lavishness can be carried too far.

Neighborhood Factors

The class of possible tenants is the determining factor. On Broadway an office building attracts all sorts of tenants. On either side of Broadway, it must look for its tenants to the businesses which have made that district their headquarters. And in seeking tenants for a new building, it is wise to go after the leaders of a

trade. If you get them, others in the same line will have to follow. Sometimes a skilful agent, by carefully selecting his first tenants, can practically move an entire trade to his buildings. An example of this is the way in which railroad interests have made the Hudson Terminal Building their headquarters, and this field alone made a community of fine tenants. Some of these trades require special arrangements, others need only the average layout. For example, dealers in precious stones want north light and woe be to the owner who erects a building for this trade opposite a yellow building. The reflected yellow light lowers the value of their diamonds. Other trades have certain requirements in the way of service or convenience to the post office or some other activity connected with their regular affairs. The adaptability of the building to these requirements materially influences its rentals.

Laying Out Offices

New buildings are now constructed without ordinary partitions. Offices are rented from floor plans, and the requirements of a tenant are generally expressed in square feet. The tenant and manager then work out on the floor plans the layout of separate offices, and the partitions are put in. Here, if the manager is wise in his own generation, he will guide the tenant away from peculiar arrangements which would be totally unsuited to any other tenant, and induce the prospective occupant to accept as nearly a normal division of his space as is possible. This frequently saves the ripping out and rebuilding of partitions at the expiration of the first lease. In most cases, tenants are entirely unable

to judge real effects from floor plans, and the agent must, from long experience, be able to guide them as to sensible arrangements which do not sacrifice light, air or convenience. To get at this, he must frequently study the sort of business the tenant is to conduct and show him how best to plan for it. The happiness or satisfaction of a tenant is a valuable asset, and it is better to take pains to make him comfortable than to tell him repeatedly afterwards, "Well, it's what you yourself wanted."

The methods of securing tenants for buildings have changed very materially in the past few years owing to the practice of taking over leases. In the old days, an office building manager kept records of when leases were to expire and went after these tenants, to induce them to move to his property, about three months before the expirations. Nowadays, however, the mere fact that a man has a one or two year lease doesn't count. The agents go after him—provided he is desirable—and offer to take his old lease off his hands if he will move to the new building. The owners of the new building figure that if they do not get the tenant the space will be vacant for a time anyhow. If, however, they succeed in disposing of the old lease they have taken over, it is so much profit. For the filling of an office adds but little to maintenance cost. If they do not get rid of the transferred lease, they are no worse off than they would be anyhow, and they have in their building a tenant who will bring in real rent in a year or two. Moreover, the rapid filling up of the building is desirable because, until the most desirable space is let, they cannot get the regular rate for less desirable space. Still, this policy of taking over leases has intro-

duced much confusion in office property. An agent may have his building filled with leases with two or three years to run and feel that many will renew. A new building opens, grabs his tenants and leaves him in the necessity of looking out for a new set. Moreover, in some cases the representatives of a new building, particularly if it is out of the renting season, may make concessions to get rid of the transferred lease which seriously affect rental standards in the old building.

Dangerous Tenants

Selection of tenants, particularly in one of the widely known buildings, and even more particularly in one of the great home office buildings, is very important. In the first place, a few crooked or doubtful tenants in a building will hurt that structure with solid business men. One get-rich-quick fraud in a building will make every legitimate financial concern want to move. One lawyer who advertises for divorce cases will keep every legitimate practitioner out. The mere ability to pay rent is far from enough; sometimes the worst frauds are most prompt with their rents. A reference to a bank, which, of course, knows merely about the man's legitimate financial standing, therefore, should not suffice if there is the least suspicion. For once a building gains the name of harboring queer gentry, it will never live down the reputation that two or three post office fraud orders will give it. In the case of well-known buildings, agents must remember that tenants share in the reputation of their landlord. It is taken for granted that people like the Singer Company or a great life insurance company would have no traffic with bunco

men. And men with queer schemes are only too glad to have the semi-approval of their schemes which comes from being located in such buildings. It is, therefore, very necessary for agents for such well-known buildings to sift their tenants with a fine screen. And because a building is affected by the class of tenants, it is necessary to see to it that the bootblack stand, flower store, barbershop, candy store, cigar and news stands are of a character with the building and deal with their patrons just as the building deals with its tenants, justly and considerately.

Tenant and Manager

The prosperity of the tenant is to the interest of the building. If he cannot make a success of his business he must move; if he succeeds he will stay on. The manager, therefore, must see to it that everything reasonable is done to help the tenant succeed. Halls and offices must be always in beautiful condition. Elevator service must be such as makes it almost as convenient to visit the man on the twentieth story as to drop into a street level store. He must be certain that every one who comes to seek a tenant is helped to find him and is treated courteously by hall men, elevator men and other employees. Any attendant who was discourteous to any one, stranger or not, should be discharged.

For my part, I would much rather an elevator man was rude to a tenant than to a customer of a tenant. For the tenant's standing is affected by the tone of the building just as a building is affected by the character of its tenants. Similarly, the manager, through the superintendent, should see to it that the offices of the tenants, as far as walls and floors and trim are

concerned, are kept up to the standard. It is well to have a superintendent inspect every room once in a while to see what should be done. In his relations with tenants, the manager must strive to make friends. He will find that few tenants are unreasonable in their demands—that is, as far as high-class office buildings are concerned. In his dealings with them the positive attitude is important. If he agrees to repairs, he should see that they are carried through at once. If the repairs cannot be made, he should say so and not hedge. Complaints should be followed up closely. But the wise agent will, as far as possible, direct tenants to the superintendent of the building on the matters that are directly within his province. These employees, from the head down to the scrubwomen, the agent should see, are the sort of people who can fill their positions successfully and who will in their dealings with the public carry out the policy of the building. If it is important that the building service staff be always polite and attentive, it is essential that every one within the manager's office be especially careful in all his dealings with tenants—establish a reputation of regarding the interests of tenants as paramount.

HOW TO APPRAISE PROPERTY

EDWARD H. GILBERT

Fee, Rental and Market Values—Appraiser's Qualifications—Valuing Parcels of Land—Inside Lots and Corners—Improvements—Income from Buildings—Old Buildings—Cost of Modern Buildings

REAL property is defined as land and land only; it does not include anything growing out of the land or anything built upon it. Forests, growing crops and buildings are additions to land value, but they are to be considered as ephemeral by nature, and having the characteristics of personal property only. The fundamental characteristic of real property is its permanence. Land is used for all the purposes of man, and its value to him is measured by the degree of such usefulness represented in money. This value is based upon its capacity to produce profit or that form of income known as rent. The value of land, therefore, is its rental value, and its fee value is the rental value capitalized at the prevailing interest rate of money. For instance, a lot which will yield a net annual rental, free of all charges, of $1,000 may be said to have a rental value of $1,000 and a fee value of that amount capitalized at say 5%, or $20,000. The fee value of land is the value of the right to transfer the title, and is the form of value most generally used in this city, where land is constantly changing from one title holding to another.

A leasehold of land is a limited estate in the land by virtue of which the land is transferred to the control

of other than the title holder, who reserves, however, a stipulated rental for its use.

Market Value

The fair market value of a fee holding of land is the price obtainable for it when voluntarily offered for sale in the open market, under equable and normal market conditions, to the competition of buyers. Its fair rental value is discoverable in the same way. The fair market value of a leasehold of land is the difference between the amount of rental reserved in the lease and amount of rent obtainable for it when voluntarily offered in the open market under equable and normal market conditions.

The Appraiser's Qualifications

The province of the appraiser is to determine value at any given time and under all conditions. He should possess the following qualifications:

First: A solid experience in buying and selling real property covering a period of several years. This gives his mind a kind of drill in the habit of considering all the various conditions that affect value. In the course of his business he is compelled to listen to criticisms of property and also to criticise it himself, and to form judgments of value, and to discuss values with those who are about to buy or to sell and whose interest is most acute to know values accurately. It is only by thus coming into direct contact with actual facts that he can make his knowledge practical and worth something to others as well as to himself.

Second: A thorough familiarity with neighborhood conditions with some knowledge of neighborhood history.

Third: A broad knowledge of prevailing industrial and social developments at large, such as will aid him to discover present tendencies and forecast future prospects with a fair degree of accuracy. Temperamentally the appraiser should not be given to great enthusiasms or undue depressions. He should always be able to give logical reasons for his opinions when such are asked for, and to justify his judgment to the minds of others. In order to meet this last requirement it will be necessary for him to found every judgment upon a basic synthesis satisfactory to his own mind, which, when subjected to analysis, shall show every step toward the conclusion to be reasonably established and the conclusion to be a just result.

Valuing Parcels of Land

The preliminary steps toward the actual valuation of any given parcel of property are:

The determination of the value of a single city lot 25x100 situated midway in the block on the street or avenue wherein lies the property to be appraised, and from this unit of value deducing the value of that property as a whole.

Example for Four Lots

Unit of value on Avenue.....	
Lot at center line.....	$10,000
Next lot	10,000
To lot adjoining corner add 10% of unit, $10,000 + $1,000 = ...	11,000
Corner lot is worth $11,000 plus 60%, or.....	17,600
	$48,600
Add plottage 10%.....	4,860
Total valuation	$53,460

How do we arrive at the proportionate differences of value between these four lots which enables us to say that one lot is worth 10% more than the one alongside of it and not 15% to 20% more, and that the corner lot is worth 60% more than the adjoining lot and not 50% or 100% more? These relative values are approximations, and are the result of much observation and the analysis of prices obtained at public auction and private sales.

Let us take a concrete example illustrating the reason for the conclusions referred to: In 1906 at a public auction sale of vacant lots in the Borough of the Bronx on Jerome Avenue, east side, between 208th and 209th Streets, several individual lots were sold, each bringing $2,800. At the same time a plot 100x100 at the northeast corner of 208th Street and Jerome Avenue was sold as a whole for $15,100. The sale price of individual lots gives us the unit of value. Let us apply it in the manner I have stated to be customary with appraisers:

Example

Unit of value lot at center line	$2,800
Next lot	2,800
Lot adjoining corner, add 10% to $2,800	3,080
Corner lot add 60% to $3,080	4,928
	$13,608
Add plottage 10%	1,360
Total	$14,968

which is approximately the price actually obtained for the plot 100x100 as a whole. At this sale all the conditions were present which make this example fairly applicable in support of the theory.

There are, however, exceptions to this theory of relative values. In factory districts it is often the case that the value of the corner lot is rated at only 50% more than the value of the lot adjoining. This is due to the fact that the relative value of the area to the frontage is greater in factory lots than it is in lots the availability of whose entire area is limited by law, or in lots where window display would make the frontage relatively of greater proportionate value than the area.

Corner Lots

What is it that makes a corner lot worth any more than an inside lot?

1st. Superior situation with reference to light and air.

2nd. Greater frontage for purpose of display and contiguity to passing crowds or possible buyers.

3rd. Objective prominence for advertising advantage.

These are great considerations.

The corner lot shows a frontage of 125 feet, as against only 25 feet for an inside lot. It has a space of between 50 and 100 feet between it and any other building on this frontage and the opportunity to display goods is very much more extended, while it projects into the thoroughfare and commands attention.

Improvements

The value of land, however, is not the only value which the appraiser of real estate is called upon to estimate. It is required of him that he shall be able correctly to assign a market value to a combination of the land and any structural improvement that may have been erected on it. In order to be able to do this, however,

he does not have to qualify as an expert in construction. He does not have to have a technical knowledge of the trades or of architecture. It will be noted that all that can be required of him is his judgment of value as a trader—that is to say, the market value or what the whole property would bring in the market if offered for sale. This is the value that is required for the purpose of placing mortgage loans, or of purchasing, or for purposes of taxation.

What the building cost to construct, or what the materials in it may have cost in themselves, does not necessarily enter as a factor into the market value of the whole. The appraiser, therefore, does not have to estimate the cost of construction in all cases, though where a new structure perfectly adapted to its situation and purpose is to be valued in connection with the land, the cost of same is usually estimated and added to the land valuation to produce value of the whole.

If, however, the building, though new, is not adapted to the purpose fc which it was built, or is ill situated (as a private dwelling in a factory district), its value would be considerably less than its cost and would be based upon the degree of its general or special usefulness. It might be that such a structure, though new, should be considered to have no market value whatever because it was an inadequate improvement of the lot. All buildings depreciate in value through wear and tear and by reason of neighborhood changes affecting their usefulness.

We estimate that fifty years is the full life of a building in New York City, for if at the end of that time it still be as substantial as ever, which is quite possible, it has become old-fashioned and ill adapted to modern wants

and its value has merged with the value of the land under it. Hence we have to-day large sections of Manhattan Island, apparently covered with substantial improvements, that are just waiting a market movement to show themselves as really so much land ready for the builder.

Income from Improvements

Fundamentally the only measure of the value of a building which is practicable is that of rental or profit; and the value of any building is better determined upon its income, as a measure of its adaptability and usefulness, than in any other way.

Example

If we take a lot 25 x 100 to be worth.....$20,000
And allow that it should yield 5% net to the owner in rental, we have, as its rental value 1,000

If we erect upon this lot a six-story modern tenement at a cost of $25,000, we have a total investment of $45,000, upon which we find that, according to the average rate of interest on equal security we ought to get 5% net out of the ground value and 6% net out of the building value, or $2,500 clear per year out of the whole. At this rate the lot portion of the investment pays $1,000 and the building $1,500.

Upon estimating the cost of operating such a tenement, where hot water (but not steam heat) is supplied night and day to the tenants, and allowing $500 per year for depreciation in value, we find that it will be necessary to get a gross rental of at least $4,800 for the whole, to be collected from tenants occupying 52 or 65 rooms. In order to pay such an aggregate rental each tenant

will be obliged to contribute about six dollars per room per month.

If this estimated rental proves to be higher than that which is paid by others in the same or a similar locality, then such a tenement is not the proper improvement for the lot, or is not the most economical form of improvement. In order to make this lot available for the purpose of a tenement house improvement, therefore, it becomes necessary to adopt a more economical method of improvement.

Another lot at $20,000 adjoining is, therefore, added, and the new six-story improvement covering 70% of 50x100 will contain *double* the number of rooms, and will cost only $45,000 to build, a saving of $5,000 in construction. This makes the investment $85,000 and the gross rental $9,600. In this house only one staircase is required, with its well for an area twice as large as in the first instance, and but one hot water heating plant of a little larger size, so that proportionately the cost of operation is considerably decreased and the whole proposition becomes more valuable because it is more profitable.

This little sketch of the treatment of a city lot may give you an insight into the proportionate relations of gross and net rentals to fee values and cost of building. In estimating the value of real estate which comprehends the value of the improvements thereon, we usually classify the various common forms of such improvements about as follows:

Value of Old Buildings

Of old buildings which are no longer an adequate improvement to the lot on which they stand, we say that

their value has merged with the value of the land and is inconsiderable. Old buildings which by the addition of some improvements may be reclaimed to adequacy for a time and, as it were, given a new lease of life—to these a certain allowance of value is given based upon the time they are likely to remain profitable.

Cost of Modern Buildings

Five-story tenements, built on 25x100, cost, as is well known, within the limit of $15,000 to $20,000, or at the rate of eleven to fifteen cents per cubic foot.

Six-story modern non-fireproof tenements, without elevators, commonly known as "walk ups," cost from twelve to sixteen cents per cubic foot to construct and are usually built on lots larger than 25x100, of which they cannot cover more than 70% of a lot, where the old style twenty-five foot house could use 75% of the lot. They are usually of very cheap construction and built to accommodate the families of day laborers whose earnings are near the bottom of the scale.

Six-story elevator apartment dwellings, non-fireproof, cost from fifteen to eighteen cents per cubic foot to build, and accommodate quite a large class of people who are able to pay from $7 to $10 per room per month.

Seven-story elevator apartment dwellings which are called semi-fireproof, vary in cost between somewhat wider limits, fireproof apartment dwellings of greater height costing from twenty-five to fifty cents per cubic foot to erect.

Non-fireproof store and loft buildings cost twelve to eighteen cents per cubic foot and the same, called fireproof, to any height, built of steel, cost from eighteen to thirty-five cents per cubic foot.

Office buildings cost from twenty-five to fifty cents per cubic foot.

Stable property, garages and factories cost from fifteen to twenty-five cents per cubic foot, according to character of construction.

New buildings are estimated at what they probably cost, and the value of the land is added to that to obtain the value of all.

The process of computing the cost of construction is to obtain the area of land covered, the height of the building, calculate its cubical contents in feet, and multiply by the figure determined upon as probably representative of the cost of building per cubic foot.

Example

To illustrate, take a corner property six stories high, covering 90% of a rectangular plot of four city lots, or 100x100, at the corner of an intersecting street and avenue. This shows an area covered of 9,000 square feet with twelve feet between floors or 84 feet in height above cellar bottom.

$$9{,}000 \times 84 = 756{,}000 \text{ cubic feet.}$$

Say that the character of construction warrants a cost unit of 18 cents per cubic foot, we have then 756,000 cubic feet by 18 cents or $136,080.

Supposing the land to be worth $20,000 per city lot as a land unit of value. Then 100x100, as a corner, following the method of land valuation outlined at the beginning of the lecture, would develop a full value as follows:

Lot at center line	$20,000
Next lot adjoining lot	20,000
Lot adjoining corner (unit plus 10%)	22,000
Corner lot ($22,000 plus 60%)	35,200
	$97,200
Add plottage at 10%	9,720
Total land value	$106,920
Value of building (cost)	136,080
	$243,000
Add 10% for builders' profit	24,300
Total appraised value	$267,300

The unit of cost of construction is worked out from the average experience of the appraisers. The cost of a number of typical buildings is ascertained to lie within certain limits, and constant association of those units so derived with certain forms and appearances of construction has enabled us to make close approximations of actual cost (or what that cost should reasonably have been), to suit the purpose for which the building was erected.

POINTS TO BE CONSIDERED IN VALUING A BUILDING

G. RICHARD DAVIS

Quality of Construction—Finish—Area and Character of Buildings—Equipment—Cost—Expense and Maintenance — Income — Architectural Features — Character of Location—Suitability of Improvement

THE ultimate result desired by all those seeking knowledge relating to improved real estate and building construction is to be able to value such property intelligently and properly.

There are nine points which are material in determining the value of improved property.

I. Height and area of the building.

II. Character of the building, and whether it is fireproof or non-fireproof.

III. Quality of construction, finish and equipment.

IV. Cost.

V. Running expense and expense of maintenance.

VI. Income.

*[This chapter is but a brief summary of a few of the many salient points of building construction developed by Mr. Davis in his lectures on "Practical Building for Real Estate Men and Owners." A second volume which will give in detail all points of construction that real estate brokers, appraisers and owners should know to value a building, intelligently or to criticise a building under construction, is now in course of preparation by Mr. Davis. The West Side Young Men's Christian Association will publish the book.—EDITOR'S NOTE.]

VII. Architectural features, including arrangement and design.

VIII. Character of the location.

IX. Suitability of the improvement for the site.

I

Height and Area—In the chapter on Building Loans, page 212, the method of determining the ground area of a building is outlined, and the height is apparent upon inspection.

II

Character of Building—The character of a building may be determined by the plans when filed in the department, showing whether it is fireproof or non-fireproof construction, and whether it is to be a dwelling-house, tenement, or business building, etc.

III—QUALITY OF CONSTRUCTION

Foundations—It is impossible to tell in the finished building whether the foundations were put in correctly and substantially or not, but cracks in the stone work or in the brick work, particularly in the window arches, lintels and sills, and in small brick piers, indicate a settling which is due to either faulty mason work or foundation work—generally the latter. A house built upon rock foundation is always superior to that built upon any other foundation soil, and, if possible, the character of the footings should be ascertained, either by borings in the yard or cellar, or by reliable hearsay evidence. In tall buildings, the obtaining of a certificate

from an engineer as to the character of the foundation work is almost an essential, and a buyer of improved property of this character should hesitate before investing until he has ascertained the manner in which the foundations have been put in, and as to the character of the under-soil.

Brick Work—Well laid brick work will show the vertical joints on line and a smooth and plumb front surface. This is true both as to front brick, and particularly so as to the rough work in the courts and yard. An impervious brick is better than an absorbent pressed clay brick. The former resists the moisture, while the latter is apt to cause dampness inside the building.

Stone Work—Stone is used for the purpose of decorating front and gable walls of buildings, for stoops, etc. White Indiana limestone is commonly used in this city. There is also a red limestone that is sometimes seen. Brown stone is now out of use, but very common up to ten years ago. Granite is much harder than limestone, and is more expensive to cut and dress. It is rarely used as ashlar or for front stone work except in large public buildings; but it is largely used for exposed foundation facings, stoop platforms, water-tables, corner-stones, railings, etc. Marble is the choicest stone that can be used for fine work, and is hard and admits of great ornamentation with carving.

Terra Cotta—Terra cotta is used in place of stone for ornamental purposes. It lacks the strength and even surface of stone, and is a poor substitute if used in continuous courses, but is most desirable when used for ornament with brick work, in band courses, or for cornice courses, quoins, arches, etc.

A sufficient amount of stone and terra cotta should

be used in ornamenting the front to present a pleasing and effective result. An attractive front, with handsome stone work and ornamental terra cotta is very pleasing to tenants, and influences the rental value of a building.

Cornice—The cornice of a non-fireproof building is generally of galvanized iron made in ornamental design, and anchored to the roof beams and the brick work. Sometimes the cornice is made of copper, which is the most durable, and sometimes the brick work is continued up above the roof and finished with a decorated coping wall or cornice wall of terra cotta, forming a part of the facade.

A copper cornice, instead of one of galvanized iron, indicates the use of the best possible material for that purpose, with the consequent increase in wearing quality and less cost of maintenance.

The ornamental railings of cast iron about a building should be of pleasing appearance and sufficiently heavy to withstand wear. Note should be taken that they are properly set and painted.

Entrance Vestibule—Upon entering the building, the size of the vestibule and entrance hall should be noted, and how it is finished; the quality of the wainscoting and its height. If a public hall is wainscoted with marble at least five feet high it will prevent the hand soiling of a decorated wall, which is costly to repair.

A mosaic or marble floor is more expensive and more durable than a ceramic floor. The use of a hard marble is more desirable than a soft one, as soft marble is absorbent and will stain very readily, and after a few years becomes very unsightly. The quality of the marble treads of the stairs and the marble base in the public hall landings should likewise be noted, and as these

landings and stairs are being constantly washed, the use of soft marble is particularly undesirable. The marble base should be continued underneath the entrance door trim, in the form of plinth blocks, to prevent the soiling of the trim by the scrubbing to which the tiled floors and base are constantly subjected.

The use of a heavy canvas or wall paper is more desirable than a plain plastered wall for public halls and stairs, particularly in buildings without elevators, as in the latter case trunks and furniture are carried up the stairs, with the resultant breaking and marring of the walls, which would be lessened or avoided by the use of some such material.

Elevator—If the building contains an elevator, the latter should be examined as to its speed, smoothness of running, and its size. Note should also be taken of the finish of the interior of the car, as a slight indication of the quality of the workmanship. Expert advice may be taken as to the electric equipment of the elevator, but this is hardly necessary except in large and important buildings.

The electrically run elevator is practically universal in apartment houses, business buildings, etc. The plunger elevator, which is a combination electric and hydraulic one, seen in large office buildings and in some apartment houses, is much more expensive to install, but has the additional factors of safety and speed, which is much desired in high buildings. The ordinary steam powered hydraulic elevator is now rarely used.

Roof—The use of a tile roof is expensive but very desirable, as its duration of wear is practically unlimited. However, its cost is so much greater than that of a slag or plastic slate roof that the latter, from the stand-

point of economy, must generally be preferred. Both of these kinds of roofs are easier to repair than any metal roof, and are much preferable. The use of heavy tar paper, laid on top of the finished slag or plastic slate roof, serves to protect it from damage due to walking upon it, and is more effective than gravel, which is used for the same purpose.

Flashing—The use of copper flashings, gutters and leaders is desirable, and indicates substantial construction, although good galvanized iron, if well painted, is extremely durable and gives excellent results, and is most commonly used in six-story buildings or those of lesser height.

If a plastic slate roof is used, plastic slate may be used for flashing. It is most important to have the roof watertight, and the flashing of the roof is one of the most necessary things to have done properly. To make a thoroughly good job of flashing, where metal is used, the flashing should be continued completely through the brick work or coping wall, and all plumbing pipes running through the roof should pass through a lead collar and sleeve, made fast to the roof covering, and flashed with copper and then counter-flashed—*i. e.*, a cap flashing run around the pipe some six inches above the roof.

Where plastic material is used for flashing, the higher the fire walls are flashed the better the result.

Drying Frames—The use of the best construction for drying frames is desirable, as the expense is very little more, the cost of maintenance is one-half, and the roof is much more readily kept watertight. Drying frames are placed on the roofs of apartment houses, for drying clothes in the open air, and are built of angle irons which are fastened to the roof beams and run through the roof,

or else are connected with a wooden platform, or one built of angle iron, with runs laid on the roof, but not going through it, the upright angles being braced or secured by additional braces connected with the platform. The latter method is by far the most desirable, for, when the angle irons or uprights run through the roof and connect with the beams, the weight of the clothes upon them gradually causes them to work loose and to break the flashing, either of copper or tar, around where they pass through the roof, and results in leaks, this being one of the most common causes of roof leaking. Besides this, using a wooden platform for fastening the angle irons to, serves a double purpose by protecting the roof where it is most walked upon by the maids when hanging up the clothes to dry.

Clothes Driers—Clothes driers are installed in apartment houses for the purpose of drying clothes when the weather is such as to prevent the clothes being hung out of doors. These driers are heated either by steam or gas, and should have steam coils in the bottom, with a grating above to protect the clothes from being burned by the coil. Where gas is used, a similar protection should be adopted. A combination gas and steam drier is most desirable, as in winter time the use of steam heats the drier at little or no expense to the owner, whereas in the summer the gas has less demand upon it, and the drier costs but little to maintain.

Leaders—The use of interior leaders in preference to exterior ones is desirable, but they are generally used in buildings ten or twelve stories in height or over.

Roof Tanks—A roof tank is a necessity in tall buildings and in many six-story buildings. They are also needed wherever a Flushometer valve is used. These

tanks are built either of cedar wood or of boiler iron, and should be frost-proofed with a double bottom and top and a double lining at the sides, thus creating an air space, or by running a steam coil to the top of the tank, or by putting the tank in a heated pent-house, built especially for it.

The law requires the bottom of all tanks on fireproof buildings to be 20 feet above the highest outlet of the fire standpipe line on the top floor, so as to give the necessary pressure. This explains why tanks on fireproof buildings are put up in the air, disfiguring the building from an artistic standpoint, but being very necessary for adequate fire protection.

Note should be taken that the water tanks are adequate in size, and properly protected from frost.

Fireproof Doors—Upon entering each apartment note should be taken of the character of the fireproof entrance doors. The entrance doors to all apartments, and the trim around these doors, and all the woodwork in any of the public halls must be fireproof in all apartment houses and in all fireproof buildings. These doors may be made of copper, steel, hollow steel, or of wood covered with metal. The window openings on all public halls must be trimmed in like manner. The use of hollow steel is more desirable than the use of Kalamein (wood covered with metal), and the wearing qualities of the former are much greater and present a more effective appearance if properly finished. A cheap Kalamein door will buckle, but a well-made one is desirable and durable. Copper or bronze makes a more handsome but a more costly substitute.

Floors—Note should be taken of the floors. Oak flooring wears better than pine. Maple is hard, but

shrinks more readily than oak, and is more easily soiled. Oak, therefore, makes the most durable floor. Flooring 7/8 in. thick wears better than 3/8 in. flooring, although the latter is permissible, and gives good service in a non-fireproof house if properly laid. The difference between the two may be readily distinguished by the nails, the heads of which show when 3/8 in. flooring is used, whereas the 7/8 in. flooring is blind-nailed from the side, and the nail heads cannot be seen.

The cost of maintaining a parquet floor is greater than that of a plain floor.

Trim—In considering the wood work, the height of the base, the wainscot, if any, the paneling of the doors, and the general fit and design of the trim should be noted. A high base, handsome wainscot and substantial trim are attractive to tenants and assist in producing income. Heavy trim is not always desirable, but trim that is too light, a door which is badly made and hung, and that has too many panels in it, and a base which is too low, indicate a cutting down of expense and possibly poor construction.

All buildings not over twelve stories high are trimmed with non-fireproof wood. The upright trim is known as standing trim, and the doors, wardrobes, etc., are often called hanging trim. Oak, birch, cypress, maple, hazel, poplar or whitewood, and mahogany are the commonly used woods to-day for trimming apartment houses and business buildings. Oak is the most durable of the cheaper woods. Quarter-sawn, or quartered oak, as it is called, makes a very durable and substantial trim. Mahogany is the most expensive, and an effective substitute is found in birch, which, when properly stained and finished, resembles the former very closely. Curly

birch, which is full of hearts and quirks and curls, is exceptionally pretty and is used for panels, etc.

To prevent dampness from the plaster working into the trim and splitting or warping it, the back of all trim surfaces which are over six inches in width should be painted with a damp-proof paint. This is particularly true of the panels in wainscoting, panel backs and other large surfaces of trim that come in contact with the plaster.

The use of white paint and enamel is very general in apartment houses. It costs more to maintain, but is very effective, and, under most conditions, its desirability, from the standpoint of the tenant, will create an added income sufficient to offset the extra cost of maintenance.

The use of soft wood in any apartment house is undesirable for trim, as it does not wear, is less lasting, and apt to become unsanitary. Hazel or birch makes a most desirable wood for white enameling. Cypress is undesirable, and whitewood, although taking the paint well, is too soft to be durable.

Carpenter Work—When it can be noted in a new house that the base around the room has broken away from the wall, that the window casings are not flush with the plaster, that the doors fail to hang true, and the jambs and trim are out of plumb, it is an evidence of poor carpenter work, both as to the finished wood work and the rough framing and ground work, and a further indication of poor construction.

Tiling—Note should be made of the tile in bathrooms, etc., to see whether it is firmly and smoothly set; whether a sanitary cove or rounded floor angle has been used, and whether the floor is level and well grouted with

cement. Cracked and loose tiling in a comparatively new house indicates poor work, either in the tiling or in the preparation of the walls before tiling. One of the causes of tiling falling off walls is the use of wooden lath instead of metal lath for the preliminary work of bathroom wainscoting.

The tile work of public halls should also be noted.

Plumbing—Plumbing is an important feature in the house, but one which the layman finds difficult to criticise intelligently. Note can be taken, however, of the character of the fixtures, whether they are porcelain or iron enamel, or of still cheaper material. The general appearance indicates the general character of the plumbing job, and the various plumbing connections show plainly the character of the plumber's workmanship. A well-nickeled, well-set connection is easily noted. A cheaply made and poorly mounted connection indicates cheap material and careless workmanship, and it is fair to assume that where the exposed plumbing work is poor, that the work which is hidden is of the same character.

Note should be taken that the washtubs and sinks are large enough for reasonable services, and that all fixture connections are of nickeled brass.

The investor planning to purchase a large and important building may well employ the services of an experienced plumber or sanitary engineer, to examine the technical features of the plumbing work, so as to advise him as to their adequacy, suitability, etc.

Steam Heating—What has been said as to plumbing is particularly true of the steam heating. The radiator in a room is the only outward evidence we can see of the heating apparatus in apartments. The size of the

radiator and the quality of the air, and the controlling valves, may be considered; also the radiator should be placed in front of a window, or as near a window as possible, so as to give the greatest amount of efficiency with the least amount of heat consumption. Radiators are often ill placed for the sake of saving rising lines to connect them, or to overcome the expense of running long lines of branches.

Horizontal tubular boilers, or upright sectional boilers, are most commonly used for heating apartment houses and business buildings. High pressure heating plants are used where power is required, or where a great deal of heat is necessary, and in such cases the boilers are made to carry a minimum pressure of 80 lbs. of steam and upward. In low pressure plants the minimum pressure necessary to obtain results may be only two or three pounds of steam, the maximum not more than ten pounds. A sectional boiler is rarely or never employed for high pressure work. It is less satisfactory, although cheaper than the horizontal boiler.

Large or small sizes of coal may be used by adapting the style and size of the grates to the kind of coal desired. The small sizes of coal, known as "steam sizes," burn more rapidly, and are particularly adapted for high pressure plants, but require more constant "firing" than the larger sizes.

Hot Water Supply—Hot water is obtained by the installation of hot water tanks in the boiler room, inside of which tank a coil is placed, through which steam is passed, thereby heating the water in the tank; a thermostat should be placed on the tanks to control the water heating to the proper temperature. By the use of similar coils outside the tank, through which the water

passes before it reaches the tank, the same results are obtained. The latter method, being a special device, is more expensive but more satisfactory than the former, as steam coils inside a tank gradually "pit" or wear, and leak, and are difficult to repair. Hot water is obtained also by the use of hot water heaters, which are small independent stoves which convey direct heat to water coils above them, and are run independently of the steam-boiler plant. A combination of the two methods of obtaining hot water is very satisfactory, as during the winter months the steam-boiler is used and furnishes the necessary hot water, without the added expense of running the additional small heater, whereas in the summer time, when the heating plant is shut down, the hot water heaters are used to obtain the necessary supply of hot water. In very large buildings, or where a high pressure plant is installed, and where power is furnished, steam can be used all the year for supplying hot water. It is important that the hot water tank should be sufficiently large to contain a surplus supply of water at all times, under even extraordinary demand. The problem of getting hot water varies according to the requirements of the particular building in which the plant is installed.

Hardware—The hardware in a house is relatively unimportant, but is an excellent indication of how well the house is built. Solid brass hardware costs considerably more than stamped. The difference between the two is easily detected, and the use of the former is an indication of substantial construction, although the reverse is not always true of the latter.

Electrical and Bell Work—It is difficult to determine as to the interior character of the electrical and bell work,

but the adequacy of the equipment should be considered by noting the use or omission of wall switches, base plugs, dresser outlet lights, sufficient illumination in all rooms, and the use of proper panel boards and boxes in each apartment. It is easy to detect whether paraffine or rubber covered wire has been used for the bell work, the use of the latter showing that the best material possible has been employed. The sufficiency of the equipment of bells and annunciators, where necessary, should be noted. The use of a handsome and substantial push button at the entrance door is a slight indication of the care or carelessness used in equipping the house.

Plastering—There is little that one may do to determine the quality of plastering in finished buildings. The use of decorative plaster work on ceilings may be considered as indicating a desire on the part of the builder to obtain a good job. The use of coved ceilings throughout should likewise be regarded as good practice, but the layman finds it almost impossible to determine the general character of plaster work in new buildings, and the cracking and settling of plaster is due as often to faulty construction of masonry, framing, etc., as to a poorly mixed or laid job of plastering.

Shades—The quality of the shades in an apartment is an indication of good or bad equipment. A heavy shade stick and strong cord, and a good quality holland, indicate good work. A cheap shade, which is constantly getting out of order, is costly to maintain. The initial cost of putting in a first-class shade is so small in comparison to the cheaper one that economy in this respect should not be considered as against the final cost of maintaining a poor shade.

The same is true as regards the other equipment

necessary in apartments, such as dumbwaiters, refrigerators, lighting fixtures, gas ranges.

Dumbwaiter—The dumbwaiter rope should be of the best quality, and the car should be of oak, heavily bound with iron. A good car for the dumbwaiter can be purchased for the ordinary six-story house for about $35, whereas a cheaper car at $25 is too often installed. The expense of maintenance of one as against the other will probably show in five years' time that the car which was originally the cheaper is finally three times as costly.

Refrigerator—The refrigerator should be large enough and should be lined with galvanized iron heavy enough to withstand the greatest amount of wear. The use of imitation porcelain lining instead of the opalescent white glass, or white tile, is bad practice, as the former, which is cheap metal lightly coated with porcelain, will rust in a short time, and become unsanitary. The use of light-weight glass is also improper, as it becomes easily broken and is therefore costly to maintain. The use of heavy brass hardware, both for hinges and catches, is desirable, as the hardest kind of wear is given them.

Lighting Fixtures—Lighting fixtures should be attractive, preferably of cast or spun metal, and should be heavy enough to withstand the hard usage to which they are put. The use of a chain pull socket which is easily reached, in place of a key socket, is desirable, particularly where the wall switch is not used to control the light. The small additional cost of the former will be more than made up by the greater efficiency and attractiveness to tenants, while the cost of maintenance is no greater.

Bathroom Hardware—It is desirable to install bathroom hardware in apartments where the walls are tiled,

such as toilet paper holders, towel racks, soap dishes, etc., so that the various tenants will not injure the tile when installing and removing their own fixtures.

Gas Ranges—The use of a good gas range is desirable, as the cost of maintenance is less, and its efficiency and attractiveness to the tenant affect the income most favorably.

Painting and Decorating

The painting and decorating of an apartment is more or less temporary, and owners are obliged to do this work every few years, and the character of it can only be considered from its attractiveness from the tenant's standpoint, and its durability, from the owner's standpoint.

The use of a good varnish on doors and the woodwork, which is finally rubbed to a hard finish, indicates the use of the best method and gives the best results and greatest durability. The same is true of enameling. Painted walls should be stippled, which makes them wear and look better.

Hardwood floors should be rubbed to a dull finish, whether shellac or varnish is used. The use of crude oil on kitchen floors makes the most desirable and durable finish, as varnish used on a floor which is being constantly wet will soon wear off, and is costly therefore to maintain.

Telephones—The use of telephones in apartment houses has become almost universal. In the higher class houses, it is particularly desirable to eliminate the usual switchboard installation made by the telephone companies, which is very costly to maintain, both from the necessity of paying switchboard operators and from the loss in

toll collections due to the fact that five cents is the maximum charge that can be collected from the tenants and four cents the minimum cost, unless the total yearly messages be exceptionally large in number. By compelling each tenant to make his independent contract with the company, it is possible to do away with the necessity of maintaining the switchboard and of acting as a collecting agency for the telephone company, which is practically what the owner of an apartment house with a switchboard system is obliged to do. As it is necessary to have some means of communication from the entrance hall to each tenant's apartment and also with the janitor, superintendent, etc., an intercommunicating phone system must be installed which can be done at a comparatively moderate cost, affording a means of intercommunication within the house, and at practically nominal cost for maintenance.

This method of telephone equipment has been tried with great success in a number of apartment houses and should be considered a most desirable feature from the standpoint of the owner.

Filters—Filters in the larger apartment houses are a desirable addition, their use being a convenience to the tenant as well as a sanitary precaution. In addition to this, in twelve-story houses they help to eliminate dirt and other foreign matter from the water supply, thereby insuring better circulation and less deposits in the pipes and traps of the plumbing system throughout the house. Filters are easy and inexpensive to maintain if properly made and installed. A cheap filter, however, is worse than useless. One criticism that can be made of the use of a filter is that it reduces the water pressure, thereby increasing the necessity for the use of a pump,

but in buildings over six stories in height the pump is practically a necessity. Therefore, this question may be disregarded in buildings more than six stories high.

Note should be taken of such additional equipment as wall safes, which are of little practical use, of mail chutes, which are of great convenience and cost nothing to maintain, of garbage closets, which find favor with many tenants, but which must be carefully and often cleaned to be kept sanitary.

Vacuum Cleaner—A vacuum system in a large apartment house is a desirable addition. Its cost of maintenance may be such as to offset its attractiveness from the owner's standpoint, but a substitute may be found in the portable vacuum cleaners which do equally good work and which are run by power furnished by each tenant.

Lighting Public Halls—The public halls should be well lighted, but not over-lighted, as the latter are costly to maintain. If too many outlets are provided, low candlepower lamps should be used. The method in which these lights are controlled will also effect economy, particularly the use of a double switch for each hall landing light which should properly have one electric light of high power and one of low power, the latter to be used whenever possible.

Mirrors—Note should be taken of the mirrors provided in apartments, as they are attractive to tenants and cost practically nothing to maintain, as breakage can be covered by insurance.

Pumps—Pumps are a necessity in many buildings, and usually are placed in the basement, on a solid foundation, as near the water main as possible. Where a large amount of pumping is to be done, a suction tank or

reservoir of water, from which the pump finds its supply, is desirable.

The law compels the installing in fireproof apartment houses of a water line standpipe, from cellar to roof, with valves, hose nozzles, etc., on each floor landing, for use in case of fire, and also a "Siamese" water connection on the street, so that the city fire engines may find ready access to the necessary water supply near the building.

Basement Arrangement—The equipment and arrangement of the basement in apartment houses is very important. The boiler room should be large and preferably lighted from the street, and have adequate ventilation. The boilers should be ample to heat the house under low pressure, and there should be sufficient room in front of the boiler to pull the tubes so as to make necessary repairs. The use of a thermostat to control hot water heating is desirable where steam is used for the purpose, as it prevents the overheating of water which is detrimental to the piping, creating too much pressure and corrosion. Hot water tanks should be adequate, and independent heaters should be likewise provided for heating water when steam is not used. A small tank and large heater will produce the desired results, but a large tank giving constant storage capacity of hot water will cause less consumption of coal, and is, therefore, cheaper to maintain. Where pumps are necessary two pumps should be provided, for, in the event of one's breaking, the house is left without means of obtaining water.

Coal Storage—A large storage room for coal is economical, as coal bought in large quantities is cheaper. The handling of ashes should be carefully considered, as the more readily they can be taken out the less the

expenditure both of time and of labor. The simpler the apparatus in use in the boiler and pump rooms of an apartment house the better, as the ordinary janitor or superintendent can make repairs to the usual equipment whereas an added expense is created if the use of outside mechanics is required. The laundry room is a necessary addition to all large apartment houses, and should be equipped with sufficient driers for clothes, preferably run by steam in winter and gas in summer. Washtubs, ironing boards and ironing stoves are an attraction to tenants and inexpensive to maintain.

In summing up the foregoing memoranda regarding finish and equipment, the point intended to be made plain is that cost should not be considered where efficiency and economy can be obtained.

IV—COST

In estimating the cost of a building, there is no accurate rule or method that can be given. The common method is to obtain the cubic contents of a building and by estimating the cost of the construction of each particular class of building at so much per cubic foot, decide the total cost in this manner. It may be readily seen that the variation in cost of buildings of the same general character and construction may be so great as to make this method inadequate and inaccurate, but for the purpose of *estimating* the cost of improved property, it is the only available method. This cost should not be considered as the true index of value, but the other points enumerated should be carefully considered.

V—RUNNING COST AND MAINTENANCE

In considering the running expenses and cost of maintenance, the foregoing discussion of construction, equipment and finish is the most material point. In addition to this, the character of the building must be considered, the necessary service to be maintained, the pay roll, etc. Unnecessary elevators add to the cost of maintenance and unnecessary employees do likewise. Where a building is so built and finished as to be classed as a poor building and badly equipped, it may be safely estimated that the cost of maintenance will be high. The character of the neighborhood, the character of the building itself, and the character of the tenants will also influence the cost of maintenance. Certain classes of tenants depreciate the value of property rapidly by their general ill-use of their apartments, whereas a higher class property, with refined tenants, can be maintained for a much longer period at a much less expense *pro rata*.

VI—ESTIMATING INCOME

In estimating the income of an apartment house, there are five points that may be considered: First, the light and air; second, size of rooms; third, arrangement of rooms; fourth, equipment of the apartments and house in general; fifth, material and workmanship used in the building. These features may be considered to rank in importance in the order as put above. The most important thing to the tenant in determining how much rent he is going to pay is the light and air in the rooms; next, the size of the rooms, and then the arrangement of the rooms. All things considered, if these three points

be favorable, the equipment and construction will count for much less to the tenant than the former qualifications. But, as before outlined, these latter points make a material difference in the cost of maintenance, particularly the last, and it may be readily seen that the house which brings $5,000 a year income, with a cost of $3,000 to maintain, will return a better net income than the house which brings $5,500 a year, with a cost of maintenance of $4,000.

So long as the apartment which the tenant occupies presents a pleasing appearance, so long as he obtains sufficient heat, hot water service, etc., he will not insist on a reduction in rent from what he originally paid. But the poorly built house will cost the owner a great deal more to maintain in its original condition than the well-built one will. It should therefore be concluded that, in estimating the value of improved property, the question of income and expense should be considered together as part of each other.

VII—LIGHT AND AIR

In discussing light and air, the size and arrangement of rooms and general appearance of the apartment house, we must consider the architectural necessities and methods of apartment house construction. In planning an apartment house, the Tenement House Department imposes certain requirements as to the size of the yards, courts, etc. The sizes of these latter vary according to the size of the building, being larger for the higher buildings than they are for the lower ones.

In planning an apartment house, both architect and builder are restricted by the requirements of the Tene-

ment House Law, and also in a measure by the Building Code. The arrangement of apartment houses has often been criticised when it was impossible for the architect to plan the house differently, owing to restrictions imposed by law. One of the most common faults found in the matter of arrangement of rooms is having to pass all bedrooms before one can reach the living rooms. It is obvious that where the elevator or stairs are in the middle of the house, and with the main entrance doors to each apartment opening by necessity on the public hall, a long private hall must be used so as to reach all the rooms in each apartment. In the past it has been considered most desirable to place the living rooms, parlor and dining room on the street and put the less important rooms, such as the kitchen, bedrooms, etc., on the interior space lighted by courts and shafts. Until recently this was practically the universal way of arranging an apartment house built on an interior lot, or of the apartments on the interior parts of a corner lot. During the past few years, however, the idea of having the living rooms arranged as they should be, directly at the entrance, has come more into vogue, and a number of apartment houses have been built with the parlors and other living rooms on the courts and the sleeping rooms at the farther end of the hall facing on the street. This innovation has proved most successful and its adoption is recommended by some of the best architects and builders. It has met with marked approval from the tenants, who prefer this proper and logical arrangement of the rooms in their apartments, particularly as their bedrooms receive the benefit of the light and air from the street, whereas their living rooms, which are used more in the evening than in daytime,

can be artificially lighted and are not objectionable when so situated.

In fixing the size of a room, the architect is governed entirely by the desires of the builder. The size of a room is purely an economic question. If a builder constructs an apartment house arranged on a plot of four lots of ground with only twenty rooms on a floor, he will have to obtain for these twenty rooms as much rent as he could get if he were to arrange for thirty rooms in the same area. Those who desire large rooms are therefore obliged to pay for them. A proper criticism can be made, however, that up to a short time ago only a few apartment houses were built of proper size for those who were willing to pay for them. The same criticism may be made as to the number of maids' rooms and the size of the kitchens in many of our finer apartment houses, where tenants find their apartment woefully lacking in adequate provision in these regards. The number of bathrooms that should be installed in an apartment house of high class is also a matter much discussed, and the desire for a number of bathrooms in apartments whose rooms are large in size and number is constantly increasing. There have been several apartment houses built lately where a ten-room apartment has been provided with four baths.

In the arranging of the rooms of apartment houses, wall space must be considered, also the way a door should be placed, and how it should be swung. Ample closet room should be supplied. No closet should be less than twenty-two inches in depth, actual finished measurement, which size will admit of hanging clothes on hangers. One or two deeper closets are particularly desirable.

The placing of windows in rooms must also be con-

sidered both from the interior effect upon the wall space and from the exterior effect upon the facade. The use of bay windows is desirable, but is prohibited by law, as an encroachment upon the street or upon the courts.

The arranging of plumbing fixtures must also be considered both from the standpoint of economy in building and in their proper position for practical use. In tenement houses, the kitchen is practically the dining room, and this room should be made a large room in preference to the so-called parlor, which is often used for a sleeping room.

The exterior design of an apartment house will materially affect its income either favorably or unfavorably, according to its attractiveness or the opposite. The architect is often obliged to restrain his artistic desires by the instruction of the builder to keep the cost of construction down, but neither a short-sighted policy of too cheap and unattractive a front should be adopted, nor the equally poor one of a very expensive facade, or entrance, which, however attractive, will not have its extreme cost compensated for by its additional power to attract tenants.

To sum up, the architect is, in a large measure, subservient, first to the desires of the builder, and secondly to the size and shape of the plot on which the apartment house is to be erected. Some plots lend themselves readily to an excellent arrangement of the rooms without much difficulty, while others present such problems as to make it almost impossible to obtain a satisfactory arrangement. When all things are considered, the art of planning an apartment house has improved materially, and, while there is great room for further advance, some of the buildings constructed within the past few

years have been remarkably successful, due to the excellent way they have been planned and arranged.

VIII—CHARACTER OF LOCATION

The character of the location materially influences the character of the building that should be erected. In valuing improved property, a location which is unquestionably desirable for an apartment house may be valued liberally, particularly where the probable future development of the immediate vicinity will aid in increasing the value of the property. The same is true in valuing property for any other improvement purpose; the more desirable the location, the stronger the value. In estimating the value of improved property in poor locations, either where the character of the improvement itself is low class or where the location demands a cheap improvement, the values are not so stable and, the probability of future decrease in value and in depreciation of the improvement itself, must necessarily influence one to a conservative view of the value.

IX—SUITABILITY

In considering the suitability of the improvement for the site, it is necessary only to repeat what has been mentioned in the two articles relating to mortgage loans. To obtain the full value of the land the improvement of a site must be of a character that is suitable. No better illustration of this can be cited than in the fact that wherever it is found that a site is suitable and available for an apartment house of twelve stories in height, the land value has materially increased. If the purchaser of such a site should restrict his improvement

to a six-story building, he would find that the property as an investment would not pay an adequate return, due to the excessive price of the land. In other words, property is worth a good deal more if it is suitably improved than if it is not.

Some of the greatest changes in land values in New York have been due to the foresight of those who have discovered that some particular locality is suitable for an improvement of a character not before considered suitable and of such high class as to increase materially the land value for this particular character of improvement. The effect upon the land values of adjacent property is at once felt, and entire localities have been rebuilt in a short time in different sections of this city, the price of the land rising to meet the new level of value established by the new character of improvement which had been demonstrated to be suitable for the locality. It is, therefore, most important in valuing property to see to it that the improvement is suitable to the character of the location, and if it is not, the land value must be considerably discounted.

THE STANDARDIZING OF REAL ESTATE VALUATIONS

IRVING RULAND

When Appraisers Disagree—Need for Exact Appraisals—Neighborhood Experts Best Qualified—Peculiar District Conditions Affecting Values—Central Appraisal Committees

THE fact that leading appraisers not infrequently differ in their valuations of property by as much as 50%, raises a doubt as to the soundness of the appraisals, not only of these men, but also, as a consequence, of the appraisals of men less prominently known in the profession. The demand is for valuations which shall be, in all cases, approximately exact; for the establishment of some official body of high character, so composed that it shall be qualified to make exact appraisals.

It is generally accepted that value of real estate rests on two fundamental factors, namely, income capacity, and the certainty that the income will continue. To be able to decide rightly as to whether the income capacity of a property is increasing or decreasing, or is becoming more or less secure; to analyze clearly the causes producing these changes, and to conclude correctly as to the stability of such causes, one must have intelligence supplemented by experience in real estate matters. Especially one must have the intimate knowledge

concerning a property and its surroundings which only a prolonged and careful study of them can give. This special knowledge is obviously more within the reach of a man actively engaged in the real estate business in the particular section where the property lies than of anyone else.

It is undoubtedly true that an experienced real estate man is qualified in a measure to estimate values in sections not familiar to him by outward signs and general conditions, and by the aid of such records of sales and mortgages as are available (data indicating what someone else, rightly or wrongly, estimates the value of property in that neighborhood to be). But such a valuation is, at best, only a skilful guess when compared to the valuation given by a man of equal experience and integrity who has the intimate acquaintance that specializing in a particular neighborhood gives.

New York is a vast complex city of dwellings, factories and houses of commerce. Its physical restrictions necessitate its development along unique lines; its population is more diverse than that of any other city in the world. All of these elements add to the difficulty of the general appraiser, and emphasize the necessity for special knowledge. As one studies the city it falls naturally into sub-divisions that are fairly homogeneous—the financial district, the dry goods district, the wholesale grocery district, the lower East Side tenement district, and so on. In each district the requirements of the tenants are of a certain kind; the rents that can be paid have certain limits; the leases date from fixed months. Changes are constantly taking place; some obvious to all, others subtle and apparent only to the careful observer. To have an intimate knowledge of the con-

ditions and changes in a district a real estate man must specialize in that district. This man, therefore, by the very nature of his business has greater opportunities than anyone else to acquire special knowledge of values in his district.

Besides special knowledge, character and judgment are of the highest importance. If, therefore, there were established a central body known to be composed only of men of high character, whose membership included the leading specialists in the city, it should be competent to issue appraisals that would be accepted as standard, because they would express both special knowledge and high character. In the Board of Brokers of New York City, this combination, so far as it is humanly possible, has been brought about. From the members of this Board, an Appraisal Committee has been selected with special reference to the qualifications of the different men upon it in respect to character, judgment and special knowledge of different sections. Valuations are given by the men in whose district the property to be appraised lies. Their joint opinion, checked, if necessary, by the chairman or vice-chairman of the Committee, or the whole Committee in consultation, constitutes an appraisal by the Real Estate Board of Brokers. The birth of the movement toward an appraisal committee of this character is recent, and its development necessarily slow. But, in my judgment, it represents the most reliable method available for standardizing appraisals of real estate in this city.

HOW PROPERTY IS CONDEMNED

JOHN H. HALLOCK

Sovereign Power—What Is Private Property—Condemnation for Parks and Public Places—Assessments—Increased Valuations—Water Front—School Sites—Street Improvements—Hardships for Owners—How Experts Work

UNDER the old feudal system in vogue in England from the time of William the Conqueror, all land was owned by the crown or the sovereign. Their subjects had the use of this land as a grant in return for the services rendered by them. Such great abuses grew from this ownership that in 1215, at Runnymede, the subjects of King John forced upon him the execution of the Magna Charta, which provided that the land of subjects could not be taken from them without just compensation. Here the first limitation was placed over the sovereign power. This provision is recognized and followed in most constitutions since that time.

From this limitation sprang various rules and procedures which are followed in acquiring title to private property for public uses or utilities.

The inherent sovereign power is held by the people or government over estates or private property of individuals to take back or appropriate the same for public uses and for public uses only, and may take the same without reference to the burden imposed on any one else. In the United States the right can be exercised either by a State or the Federal Government. The Legis-

lature has the power to decide whether the property shall be taken for public purposes, but not to take it from one man for public uses and then transfer it to another. It is not necessary for the power to be used for the benefit of a whole community. It can be exercised if a great number of inhabitants are to be benefited. The mode of exercising this power is regulated by constitutional provisions and by statutes. The whole right is controlled by constitutional amendments to Article V of the Constitution of the United States as follows: "Nor shall private property be taken for public use without just compensation." This same right is recognized generally by all civilized nations.

What Is Property?

One must be careful to understand properly the meaning of the word "property"; for property itself is nothing more than the right to own, enjoy and dispose of, which also includes the use; in fact, it is nothing more than a bundle of rights, to be handled in any way one sees fit, and used without curtesy or permission of any one, and may be disposed of after the death of the owner in the way he may have wished or specified.

Public Parks and Public Places

Land required for public parks is acquired in New York in much the same way as streets. First, there is a demand in the section for the improvement. Next, the petition is presented to the Local Board, and then to the Board of Estimate and Apportionment for the lay-out. It is then returned to the Local Board for the purpose of acquiring title and then back again to the Board of

Estimate and Apportionment and direct to the Corporation Counsel to begin the proceeding.

It is not necessary to present the matter to the Local Board at all. The matter may be brought directly to the Board of Estimate and Apportionment which has the power to initiate the proceeding.

Assessments

The present policy of the Board of Estimate in the matter of acquiring title to property for public parks, and public places which increase the street area, is for the City to bear half the cost and the other half is assessed upon the property benefited. This has had a depressing effect upon that part of the public who believe that every man should have a public park in front of his house. But now, when it comes to paying for the improvement, the owners whose properties are assessed with half the cost of the improvement usually object vigorously. Heretofore, the entire cost was borne by the City of New York and public parks were always in demand, but under the new policy of the Local Board, the entire situation has changed.

An amendment to the present system of acquiring property has been suggested by some able minds. They suggest that the City not only take the property which is actually required for the improvement, but also all the property that is deemed to be benefited thereby. For instance, if a very large plaza or public place is required by the City, the value of the surrounding property may be tremendously increased. The plan is to acquire this property also and let the City sell it at public sale, and reap the benefits of its improvements. Those opposed

to the plan claim that the City is reimbursed through increased taxation. Nothing has ever been done on this line. It is simply a suggestion, but some day something of this kind will be adopted.

Docks and Bridges

Water fronts required for use by the City of New York are acquired as follows: The Commissioner of Docks, under Section 822 of the Charter, is empowered, with the Commissioners of the Sinking Fund, to designate and acquire title to docks, water fronts and all wharf property for the needs of the city. He is also empowered to purchase at private sale any of the properties required, and if this cannot be done, to institute the usual proceedings to acquire same in condemnation.

When there is a public necessity for a bridge improvement, the Commissioner of Bridges designates the property to be acquired. Then, with the recommendation of the Board of Estimate and Apportionment, the Commissioners are appointed in the same way.

School Sites

A complaint is made to the local school board in any district, on account of lack of room and accommodation, and of not taking care of the children of the district. This board reports to the Board of Education the overcrowded condition, and recommends that the present site be enlarged or some other be selected. The Board of Education adopts a resolution requesting the Board of Estimate to acquire the parcel for school purposes. The Board of Estimate either authorizes the purchase of the property at private sale or directs the Corporation Counsel to commence condemnation proceedings, to secure

the property. The Corporation Counsel then advertises for ten days in the *City Record* and some other papers that on a certain day he will apply to the Supreme Court for the appointment of three disinterested citizens as Commissioners of Estimate and Appraisal. After they are appointed, the Corporation Counsel advertises for another ten days that on a certain day the Commissioners will appear in Court to qualify. After they have qualified, they examine the property and arrange a date between the owner's attorney and the Corporation Counsel for the first hearing.

The owner has the right to open and close the case. The owner immediately proves his titles and, if there are mortgages on the property, the owner of the same proves his ownership of them. The owner, through his experts, proves the value of the property, and the Corporation Counsel then proves his valuation. After the Commissioners have gone into the case thoroughly, they make a preliminary report of value.

If the report is not satisfactory to the owner, he files objections to the report and is again heard by the Commissioners. If they deem it proper, they may increase the award. The motion to confirm the report is then advertised by the Corporation Counsel. The Court then confirms the report, and the Comptroller pays the amount of the award.

Street Improvements

Under the form of local government provided by the Greater New York Charter, a local board is authorized to initiate proceedings for the opening, closing, straightening, paving, sewering, flagging, curbing, regulating and grading of streets that lie within its district.

The local board is composed of the aldermanic district in which the local board is situated, together with the president of the borough. If the property affected lies in more than one aldermanic district in the same borough, all the aldermen of the districts and the president of the borough compose the local board. If an improvement is required within a certain district, the local board of this district adopts a resolution recommending the improvement to the Board of Estimate and Apportionment.

Street openings are begun as follows:

The local board adopts a resolution to lay out a certain street, or to sewer, pave, regulate, grade or change the grade of a certain street. This resolution is sent to the Board of Estimate and Apportionment. The Board of Estimate and Apportionment, if it approves the resolution, makes its resolution, laying out the street or the improvement as designated by the local board, or modifying it, as it deems proper. The matter again comes up before the local board, which adopts a resolution recommending that title to the improvement be acquired by the City of New York. This matter is then again presented to the Board of Estimate and Apportionment, which lays out an area of assessment on which the cost of the improvement is assessed. Public hearings are given for this purpose. Notice of this hearing is published in the *City Record* and other corporation newspapers for a specified time, setting forth a date when the Board of Estimate will again consider the matter. At this hearing an area of assessment is fixed, and the Corporation Counsel then makes application for the appointment of Commissioners of Estimate and Assessment.

All of the Commissioners must reside within the borough in which the property affected lies.

Formerly all of the Commissioners sat as Commissioners of Estimate and Assessment; but now two act as Commissioners of Estimate and one as Commissioner of Assessment. These are designated by the Court who makes the appointment. Formerly the compensation of the Commissioners for one hearing was $10, but now it has been reduced to $5, and they are obliged to sit at least one hour at each hearing. After they are appointed by the Court, they give notice to the persons whose property is affected to file their appearances and claims, and that the Commissioners will conduct a hearing on a date set. On or before that time owners can present their appearances and claims in writing to the Clerk of the Commissioners.

Proving Title and Value

Then the matter of proving titles to the various parcels affected is taken up. Formerly titles were proved before the Commissioners, but this was too expensive to the city, and in order to reduce the cost of these proceedings and the number of hearings before the Commissioners, it was determined that titles be proved before the Corporation Counsel. Therefore, the question of title does not come before the Commissioners at all, unless a point is raised by the Corporation Counsel.

The owners then prove value and their witnesses are submitted to the cross-examination of the City and by the attorneys for the owners. Both sides sum up and the proceeding closes. Notice of the preliminary report of the Commissioners is given by publication. If any

objections are found by the owners to the preliminary report, they are submitted in writing and filed. Objections are heard before the Commissioners. The final report is then made and notice that the final report will be presented for confirmation is published, at which time title to the property affected vests in the City of New York.

Hardship for Owners

As soon as a site for any improvements has been selected, the newspapers get the news and it is published broadcast that on or before a certain day the City will erect on a certain location a fire house or a school or a police station, a bridge approach, or will tear down the buildings and develop the location into a park. The tenants see the plans clearly and immediately seek other quarters, fearing they may be turned out at any time. This is the time for the small boy and thief. The small boy thinks that the property is his, and that broken windows are expected of him or he is not living up to his reputation in the neighborhood. He lives up to his reputation all right. The thief then gets in his high art and removes not too carefully all gas fixtures, copper boilers, and lead piping, and the owner, in despair, begs the last remaining tenant to remain, rent free, to keep the neighborhood from using what is left of the building for firewood. The building is now a wreck, and nothing like it was a short time ago.

City Photographer

The City again treats its citizens in a most magnanimous way by sending the photographer around to get

a picture, and he gets a good one, and, in fact, only too good, for when testimony is taken, sometimes many months after, the owner is confronted with a fine picture of his property in a most dilapidated shape, and unless the owner had the foresight to have a photograph taken at the time the property was selected, the impression made by the City's photograph is very bad. Why not treat the owner fairly and reimburse him in a proper manner after taking his property and depriving him of his income? Give him a proper amount for his property and give him the satisfaction of knowing that he belongs to a city whose property holders are treated in a fair manner.

Expert Modes of Procedure

The first thing an expert does after being retained is to examine the property in question very carefully. He examines each and every building from cellar to roof —first as to its general condition of repair; then as to the number of apartments and stores, if any, and the number of rooms in each apartment. He draws a diagram of each floor, showing location of all the improvements and the staircases, examines the kind of roof, and also the cellar, as to whether concreted, flagged or what, and familiarizes himself with every detail, so that he can be asked any question regarding it. Then he ascertains whether the property in question is a key, or has a controlling influence over the adjoining property. For instance, it may be next to a corner and partake of the value of the corner, and might absolutely control the same. As the next step, he proves the value of the land by actual sales he has made in the neighborhood, or that have been made, so that he can substantiate his

valuation as being the actual market value at the time title vested in the City.

Plottage

If it is a plot 25x100 up to 50x100 and has no improvements in the line of buildings that, if occupied, will yield an income sufficient as a carrying value, 5% of the market value is added as plottage, and the building or improvement loses its identity. If the same conditions prevail with a plot 50 feet front by 100 feet in depth, or more, and the building or buildings are not an adequate improvement, the buildings entirely lose their value, and 10% of the market value of the entire plot is added as plottage. But if the buildings are an adequate improvement, then he proves the value of the plot of ground, either one lot or more, and the buildings add so much to the value of the land.

Value by Sales

In stating the amount of damages in the proceedings the entire amount must be given, then the value of the land and then the value of the improvements. As I have said before, the expert proves his values by recent sales, and he should be careful to enumerate the most advantageous sales that have been made; for the Corporation Counsel takes the expert in hand and endeavors to tear his testimony limb from limb. He will have a list before him of all sales that have been forced through foreclosure or partition, and also where heirs have been compelled to sell their undivided interests, etc., and, in fact, he will do everything to discredit the testimony

of the expert. If he has testified in any previous proceeding, the testimony given at that time will be taken up to show that he may have altered his theory since testifying before, although ten years may have elapsed and conditions all have changed. Then the expert for the City takes the witness chair and of course endeavors to prove the value of the said property, and will say the value is several thousand dollars lower than the amount the expert for the owner has already testified to, and uses as a basis the sales that the Corporation Counsel has used, and which were furnished by the City's expert. He is then cross-examined by the owner's attorney, and after arguments by both attorneys the case is closed and the Commissioners take the entire case under consideration and make their awards.

Value of Remainder

Certain property taken through condemnation may be only a portion of a large tract of land. If a considerable amount is taken the owner may be entitled to consequential damages, owing to the fact that the remainder of the plot would be too small for adequate improvement which would yield a proper income. The valuation is made as of the date the title vested in the City; and although the remainder may greatly increase in value in the very near future on account of the contemplated improvement, this must not affect the award for the property taken. The remainder may become a corner or a key to a corner, or a controlling factor of a corner. It may also immediately adjoin an entrance to a bridge where traffic would be multiplied many hundreds of times, and where a building could be erected that would pro-

duce enormous rentals. Still this has no bearing on the original award.

Why Experts Object to Testifying

The objection most real estate experts have against appearing in proceedings of condemnation is the fact that they consume so much time that the pay is not sufficient to reimburse them. For instance, an expert is requested to value a piece of real estate, with an idea of appearing in a proceeding. He agrees with the attorney as to terms and gets ready. After getting his figures and all the data he requires, consultations are held. The time of first hearing is arranged. He attends meetings and finds that only two commissioners have appeared and that the attorney representing the owner will not proceed unless the entire commission is at the first hearing when experts are qualified. This means an adjournment, and another date is arranged. This time the Corporation Counsel is unable to be present and another date is fixed, and so it goes. Finally he is heard on his direct examination, and then more adjournments are taken. Next he learns that the damage map is incorrect, and a new map is furnished by the clerk of the department and the surveyor is placed on the stand to verify the correctness of the new map. This done, the Corporation Counsel moves that the direct testimony already given be stricken from the records, as the map was not correct and the figures were all wrong. After his figures are all corrected, the expert then undergoes his direct examination. The Corporation Counsel commences the cross-examination. These delays have consumed two or three months and 15 or

20 adjournments, so that for his expert services he receives a very small fee, probably at the end of a year, and in some cases two or three years, for he has entered into an agreement with the attorney representing the owner to receive his money after the award has been paid.

Abuses of Condemnation

Hon. Herman A. Metz, Comptroller of the City of New York, on January 31, 1908, sent a communication to the Hon. Charles E. Hughes, Governor of the State of New York, setting forth the unjustifiable squandering of enormous amounts of money through condemnation proceedings, and quoted many instances. In 1907 Commissioners made awards of $6,598,672.20 for property for public uses other than street openings and $6,934,-063.34 for street openings. The total was $13,532,736.14. The Comptroller purchased at private sale property to an amount of $6,353,099.78 as authorized by a resolution of the Board of Estimate, and this, added to the amount paid through condemnation proceedings, makes a grand total of $19,885,835.93, and this is about the yearly average paid for property taken for public improvements. The City has at the present time under contemplation or discussion over $100,000,000 worth of real estate, and this does not include the Catskill watershed and aqueduct. In the case of the extension of Riverside Drive between 158th and 165th Streets, the Commissioners made an award of $1,000,000, but afterward reduced it to $600,000.

In the matter of the approach on the Brooklyn side of Bridge No. 3, the award of $1,000,000 was reduced 10%, as the City had paid 6% for two years after the title had vested in the City. In the case of the extension

of High Bridge Park the Commissioners made a partial report resolving an award of $820,000, with only two parcels in one plot under discussion. Three years have been consumed and interest charged at 6% per annum and special counsel employed at a salary of $5,000 per annum. This does not include the Commissioners' fees, which will probably be $4,000 each.

Before closing this matter I would like to mention a commission appointed twelve years ago to take testimony regarding property at Purdy's Station, part of which has been used for years for the Cornell Dam. The report has just been made, and the award is $70,000 to owners, the interest is $50,400, and the expenses will be at least $40,000 more, making expense $90,400 to condemn property worth $70,000.

New Plan for Condemnation

The mode of appointing commissioners as now provided should be changed and entirely removed from politics. The power of appointment should rest with some reputable body of sound hard-headed business men like the Chamber of Commerce or some similar body or organization. The city should be divided in sections, like south of 14th Street, East Side; south of 14th Street, West Side; 14th Street to 59th Street, East Side; same on the West Side; 110th Street, East Side; same on West Side; 110th Street on East Side to Harlem River; West Side to West 150th Street; Washington Heights; Bronx. Three, six, nine or twelve commissioners could be appointed to each district as the improvements might warrant or according to the population. Each commission should be comprised of three men, the chairman

being a member of the bar at a salary of $10,000 per year; the other two members should receive $7,500, and be appointed for a term of years, during their usefulness to the community or until they arrive at the age of seventy years. They should hold sessions every day in the week except Saturday and Sunday, and for the same number of hours that court is now held by the justices of the Supreme Court. These Commissioners should act only in case of a dispute between the City and the owner of the property the City is about to take. All property should be purchased within sixty days from the day it is selected for a public improvement and paid for on the day on which the title is vested in the City.

The price should be arrived at by two or three real estate experts making their appraisals for the City and finally agreeing on an amount among themselves as proper to pay for the property. This amount should be paid on the day of taking title; and if the amount is not acceptable to the owner, he should be allowed to accept this amount as part payment and go before one of these sets of commissioners, according to the district, and prove the value of his property, and endeavor to get the difference between his figures and the amount he has been paid. An example, for instance, would be: The owner's value is $200,000; the City pays $150,000. The owner goes before the commissioners to secure the difference, or $50,000. In this manner, the owner has $150,000 in cash that he can use immediately; and only $50,000, or whatever amount he is awarded, is tied up for an indefinite time, and drawing interest from the time of taking title up to the date of payment of award at 6% as now provided.

Amendment to Constitution

Senator Brough has introduced a bill at Albany providing for an amendment to Article VI of the State Constitution as follows: The Legislature may establish a court of record in any county not contained with other counties within a city or in any city containing within its boundaries more than one county, which court may be vested with original jurisdiction in proceedings for taking private property for public use, assessing property for benefits and awarding damages, and in the proceedings for the review of assessments of property for taxation. Judges of such court shall sit without jury. They shall be appointed in such manner and hold office for such term as the Legislature may prescribe.

In order for this resolution to become an amendment it is necessary for the Legislature to pass it at this session, to repass it in 1911 and in the fall of that year submit it to the people to be adopted by a majority vote.

METHODS IN OTHER STATES

The following data as to the methods of condemnation in other States of the United States and in many foreign countries have been compiled with a view to supplying information to those interested in legislative improvement of condemnation practice.

Maine

Private individuals and corporations obtain right of eminent domain in Maine by an act of the Legislature

granted to them specifically. Towns may take lands for highways under a general statute, and disputes as to damages are settled by the County Commissioners' Court.

Maryland

The usual method employed in Maryland is for proceedings to be taken in any of the courts and a jury impanelled to hear evidence and fix upon the price to be paid.

Michigan

Private property may be taken for any public improvement in Michigan. The City Attorney institutes the proceedings before a Probate Court and a jury. The jury hears evidence; views the place of improvement, and makes the award and provision for payment of all mortgages on the property. Should the first jury disagree another is impanelled. Any party aggrieved by the judgment of confirmation may, within ten days after entry, appeal to the Circuit Court. Within one year after the confirmation of the verdict of the jury, or after the judgment of confirmation shall on appeal be confirmed, the counsel shall set apart and provide in the Treasury the amount of compensation to the owner or owners as awarded by the said verdict.

Montana

Property is acquired in Montana by private purchase, but if no agreement can be reached, application may be made to the Court. The Court appoints a commission of three persons who fix the price, which can then be accepted. If rejected by either party, the case goes

directly to the Court, and a jury of twelve decides what the compensation shall be.

Connecticut

If the trustees of any State institution in Connecticut need more land, they have the power to purchase it, if possible, at private sale. If they cannot agree with the owner on a price they make application to the Superior Court, and three disinterested men are appointed as a committee. They view the property and make a report to the Court. If the report is not satisfactory, another committee of three is appointed. If the report is accepted, it is considered as judgment for the owner for the amount of the assessment made by the committee. The property, however, cannot be used or enclosed until the amount of the assessment is paid to the owner.

Idaho

Property is condemned in Idaho for public purposes only by a suit, instituted by the party seeking to obtain it, in the district court of the district in which the property is situated. The amount of remuneration is left to a jury. In certain cases a board of commissioners may be appointed by the court to assess the damages sustained, and their determination of the amount of damages may be accepted as final by the parties to the action.

North Carolina

The right of condemnation in North Carolina is granted to bridge companies, canal companies, electric companies, mill owners (limited), plankroad companies,

railroad companies for right of way or to construct union depots, street railway companies, telegraph and telephone companies, and turnpike companies.

Vermont

The selectmen of a town in Vermont determine the portion of lands required for a public purpose and thereupon appoint a time and place for hearing upon the question whether such lands are required for such purpose. Notice of this hearing is given to all persons interested, either personally or by written notice. At a hearing, the selectmen ascertain the damages sustained by such interested persons through the taking of such land. The damages are then tendered to such persons. An appeal usually lies from the decisions of the Board of Selectmen to the County Court, both upon the question of the necessity for taking such lands and also upon the question of damages. The County Court thereupon usually appoints commissioners to sit in the premises. When the commissioners file their report, the Court passes judgment thereon as it deems right. Sometimes, special provision is made for the reference of a question of damages to one or more disinterested persons or to a justice of peace, who may thereupon appoint commissioners to appraise damages.

Washington

In the condemnation of property in Washington much can be done by a common carrier, or some corporation that has a public or quasi-public function. Otherwise, on general principles, property cannot be condemned. For instance, a railroad, to be able to condemn

property, must be a common carrier, and not a private road of any kind. To condemn property, an action in court must be brought where the parties cannot agree. If they do not agree that the trial judge shall settle the price, a jury must be called to do it.

CONDEMNATION IN OTHER COUNTRIES

For the following information as to the methods of expropriation of property in many foreign countries, the writer is indebted to the American ambassadors, ministers and consular representatives in the several countries.

Cuba

Laws governing procedure for the condemnation of property in Cuba were made December 15, 1841, and in regulations of July 10, 1858, and the instructions of September 28, 1865. In the case of condemnation for railroads, there are special provisions governing the procedure in the railroad law known as Civil Order No. 34 of 1902.

Nicaragua

Expropriation for public purposes is not made in Nicaragua without the indemnity provided by law. The Law of 1883, summarized, is as follows: That a competent person give his opinion as to suitability of property for the purpose required; if he favors it, it is declared of public utility. Appraisement and indemnity follow.

Roumania

The laws of Roumania are copied after those of France. Briefly, no property may be expropriated ex-

cept for public use and a commission must decide the questions. The property must be paid for in advance of actual expropriation.

Argentine Republic

As nearly as can be learned, Argentine Republic has made greater strides in law governing the expropriation of property than any other South American republic. No person can be deprived of his property except by reason of public utility, and upon a just indemnity, proper expropriation proceedings having been previously instituted. By "just indemnity" is understood the payment not only of the actual value of the property, but also of the direct damages caused by the expropriation. Whenever the nature of the expropriation is so necessary that it is not possible for proceedings of any kind, the public authority may, under its responsibility, dispose of the property immediately. Railroads receive merely the right of way, and, unlike railroads through Western States do not receive several miles of property on each side of the railroad along its entire length. This was contrary to our methods and did not appeal to American capital, with the result that South American railroads were almost entirely built by European capital, a portion of the same being deposited with the government and returned to the company so much per mile as the work progressed.

China

No condemnation laws are needed as all the titles in China are vested in the Emperor who leases them to his subjects for terms deemed proper.

Costa Rica

When the government of Costa Rica needs or authorizes the expropriation of private property, it publishes a decree stating the fact and the public reasons therefor and names a date for the appointment of experts to fix the value of the property. On this date they meet, and, if they do not agree, appoint jointly a third expert. The majority decide the value due the property owner. The first two experts are appointed as usual, one representing the government, and the other the property owner or owners. The government pays the amount fixed and takes possession.

Mexico

When property is condemned in Mexico for public improvement and the owner or owners do not agree to the valuation set by the tax office and the known value of the property, the Federal District Judge appoints an appraiser and requires the owner to do likewise in (8) eight days. Though the appraisers can accept or reject their appointments, they can not refuse to act once they have signified their willingness. Should the owner not appoint an appraiser, the Judge, acting *ex-officio,* or at the instance of the public prosecutor, requires him to do so within forty-eight hours. Otherwise, the valuation of the state's officer will be accepted. If valuations are not submitted within eight days, they suffer a fine for each day. If at the end of the second eight days, one valuation is submitted, the award will be based on that. If neither is submitted, the judge will appoint a third appraiser to settle the matter.

Brazil

Property expropriated in Brazil cannot be paid for to a greater extent than 10 or 15 times its rental value. Should there be any disagreement regarding the amount, the government is authorized to pay the minimum price demanded or stated, take possession of the property and pay the difference as soon as agreed between the government and the owner. Property can be expropriated for any public improvement. If the property taken is more than one-half of the total plot, or if the most valuable part is taken by the government, the owners can force the government to take the entire plot.

Peru

The Law of Expropriation of Peru, October 25, 1900, provides that property expropriated for public utility must be valued immediately and an appropriate indemnity handed over previously, and in cash. All works destined to serve for the general good of two or more towns or provinces are considered for public utility. In all cases of compulsory expropriation, beside the price at which the property is valued, an extra one per cent must be paid to the owner for good will and five per cent as indemnity.

Persia

At present there is no legal method by which property can be condemned for public improvement in Persia. Real estate can legally be taken from an owner for such improvement only, with the consent of the owner and on terms agreed to by him. But property wanted by the government is taken by force, providing the owner

is not a person of sufficient wealth or importance to prevent this being done.

Siam

The only property expropriated in Siam is for railways which are owned principally by the government. There are but few roads and these are near Bangkok. Almost all communication is carried on by water, as their mode of travel is through canals. If these canals are extended, it is usually through waste land, and an agreement is reached direct with the owner, as he is only too happy to have the improvement. When a new railroad is to be built or lines extended, a royal proclamation is issued and the land staked out by surveyors. Commissioners and owners try to agree, each calling in an arbitrator, if necessary, and finally an umpire.

Chile

No one can be deprived of property in Chile except by judicial decree or by right of eminent domain, in which last case the owner first receives an indemnity to which he agrees or which is fixed by "good men." In case the owner and the government cannot agree, each appoints an appraiser and, in case of a tie, a third is appointed. Only experts of highest repute can act. Government and municipal employees are barred from acting in such a capacity. The sum agreed upon must be paid before the owner is obliged to give up possession.

Morocco

There is no law existing at present covering condemnation of property in Morocco. Under the General

Act of Algeciras, however, the condemnation of the property for public improvements is provided for, and regulations regarding the same have been drawn up by the Diplomatic Corps at Tangier and the Shereefian Delegates and submitted to their respective governments for approval. These regulations are, however, not in execution pending the settlement of dynastic questions and others in that country.

Haiti

The government of Haiti notifies the owners that it is willing to pay for property in question. Fifteen days after this the owner notifies the government as to whether or not he accepts the government's offer. If the government's offer is not accepted, the owners are summoned to appear before the Civil Court for the purpose of regulating the matter. A jury of three (3) or six (6) citizens is chosen from property owners in the section where the property to be condemned is located. These jurors examine all documents and evidences presented, and upon their judgment depends the result, a majority vote deciding the matter.

Guatemala

The following procedure is necessary to condemn property in Guatemala:

1st. Declaration of public necessity and usefulness of the work, in general.

2nd. Declaration that all or a portion of the property whose condemnation is requested is absolutely necessary for the execution of the work.

3rd. Appraisement of the property.

4th. Previous payment of value of same. In case of war, the indemnity may not be paid in advance.

The declaration of public necessity and usefulness is made by the executive power. The owners of the property whose condemnation is deemed necessary are notified of this and are allowed three days to object. If any objection is made, the government decides the question.

After the condemnation of a certain lot is decided, the owner appoints one expert, and the authorities appoint one expert and an umpire to decide upon the value of the property. A law enacted after the general law upon this matter establishes that property can be condemned for the assessed value without appraisement.

Japan

Land in Japan may be condemned for military purposes, public works, railways, tramways, or for any public purpose decided upon by the imperial or local governments. In all cases, except condemnation for military purposes, the project must bear the approval of the Imperial Cabinet.

After approval by the Cabinet, public notice of the condemnation is given by the imperial government and by the governor of the prefecture in which the condemned site is situated. This notice gives a description of the premises, and the purpose for which they are to be condemned. Special private notice is also given to the owner and to interested parties by the governor, and an opportunity for private negotiation is allowed. If a private settlement cannot be reached, the case is

brought before a committee composed of the governor of the prefecture (chairman), three higher civilian officials and three members of the Honorary Prefectural Council.* This committee has full power to decide upon the boundaries of the site, the compensation therefor and the time and terms of evacuation and possession. Appeal may be had to the Home Minister, who has general supervisory control over all condemnation proceedings. In cases where a claim of illegality of procedure or jeopardizing of rights is made, the cause may be brought before the Administrative Court.** Claims for compensation different from that awarded by the committee may be brought before the Justice Court.†

The procedure in condemning land for military purposes is much simpler. The Minister for War notifies the governor of the prefecture that a certain site is to be condemned, and the governor in turn notifies the owner and interested parties. The compensation, extent of the site and time of evacuation and possession are all decided by the Minister for War.

*Governors of Prefectures are appointed by the Emperor. "Higher Civilian Officials" are civil prefectural officials appointed by the Imperial Government at Tokyo. "Members of the Honorary Prefectural Council" are members of the Prefectural Assembly (which is elected by what is called popular vote) who are also members of the Governor's Council, a body composed of the Higher Civilian Officials, and some members of the Assembly.

**The Administrative Court corresponds somewhat roughly to our Court of Claims.

†The Justice Court is much the same thing as the Circuit Court in Michigan, the Supreme Court in New York—in fact, a "Court of Justice."

In case a condemned site becomes unnecessary for the purpose for which it was condemned, it may, if a period of twenty years has not elapsed, be purchased by the former owner or his heirs at the condemnation price.

Bribery in connection with condemnation proceedings is punishable by fine and imprisonment of all parties concerned.

Russia

No property can be expropriated in Russia for government or city improvements except in accordance with the Russian laws or by imperial ukase.

The laws governing the expropriation of property are contained in the Civil Laws of Russia, Volume X, paragraphs 575 *et seq.*, and are divided into two sections, the substance of which is as follows:

I. The expropriation of land in the provinces for government requirements, such as the building of railways or military follows this procedure:

The Ministry of Ways of Communication or the Ministry of War prepare a project of the railroad, fortress, barracks, etc., showing what land must be expropriated. The plans are presented to the Council of Ministers, and when passed upon are forwarded to the Council of the Empire, which, having approved the project, presents it to the Emperor, who issues an ukase for its execution.

A special committee is then appointed by the Council of the Empire to decide what amount must be allowed for the expropriation of the land required.

The land owners are informed that certain portions or the whole of their property are required by the gov-

ernment, and they are invited to present to the committee a valuation of their property. If the committee finds the valuation reasonable, it may settle the matter at once; if it finds the estimate presented unreasonable, it appoints experts to make a real valuation. In making the real valuation these experts invite the landlords of property in the neighborhood and take into consideration the average price of land in that district, the price paid for the land, the improvements made on the land, and the income derived from the land in question, as well as other local conditions. Having arrived at what they consider a fair estimate, the experts report to the Council of the Empire, which decides the amount to be paid for such land, and the matter is thus ended. An imperial ukase being above the law, there is no court to which an appeal can be presented. It frequently occurs that the government offers in exchange for the land expropriated other land, sometimes in larger quantity, farther away, and the offer is accepted, in which case the government waives the stamp and registration dues for the new title deed.

II. The method of expropriation of land and household property in cities is as follows:

The manner of procedure for the expropriation of land and household property in the two capitals, namely, Moscow and St. Petersburg, is the same as that for railways and other government requirements. In the other cities of Russia, while plans must be presented, in the same manner as above stated, to the Council of the Empire, the execution of the plans, when approved, is left to the provincial city authorities and zemstvos, who in like manner must come to a fair understanding with the land owners or householders according to the

laws mentioned above. They must take into consideration the price for which the land or property was purchased, the value of property in the immediate neighborhood, improvements which may have been made on the property, and lastly the income derived from such property.

EXPERT TESTIMONY

JOHN MEANS THOMPSON

How to Examine Property—Danger in Speculative Values—Objection to Rules—Interior Lots—Consequential Damage—Water-front Appraisals—Valuing Leaseholds—Tax, Condemnation, and Court Proceedings—Capitalization as a Factor of Value

EXPERT testimony is but appraising in a higher degree, and is the nearest approach to a science that our profession affords.

Let me caution witnesses that in cases in which they are to give expert testimony they should thoroughly understand the case and study all its surroundings. In cross-examination they will, in almost every instance, be confronted by a shrewd lawyer watching for an opening by which he can expose them to searching cross-examination and break down their guard. If their case is carefully prepared and they have their subject well in hand and will keep control of themselves, they will find they are more than a match for the most astute cross-examiner. His knowledge must be, at best, but theoretical, while their knowledge, which is gained from actual experience, gives strength to their case and should inspire such confidence in themselves as to disarm anything that the opposing attorney may advance. They should not be hasty in their answers, but sharp, decisive and to the point. They should be careful not to advance

an opinion in such a way that it will give offense; should exercise care and diplomacy. Oftentimes, if it is done in this way, opponents will not object to testimony even if statements may not be within the strict rules of evidence. Above all things, they should keep their tempers. I know of one attorney who tries to anger a witness in the hope of exciting him, and anger him he often does by his rudeness. I have found the only thing to do is to keep my temper outwardly at least, and with studied politeness ignore the insinuations and sarcasms.

The next most important thing to remember is that a careful record should be kept of testimony in all cases. One never knows when he will be confronted by former statements and will find it most embarrassing if it be not in accord with present testimony or if any discrepancy cannot be reconciled. The giving of hasty opinion is to be avoided; it is far better to say the question asked has not been considered and that it is impossible to answer it until further examination into the matter.

Copious notes of an examination and a full set of all figures are an advantage. Do not rely upon memory, do not be disconcerted by the attorney who asks you if you cannot testify without your notes, for it is an impossibility to do so, and the Court will readily recognize the fact. Above all, if asked to make calculations on the witness stand, do not become confused, but make calculations deliberately. It will be far better to spend the time in this way than to make an error difficult of correction.

The first step in preparing any case is to make a thorough examination of the property concerning which you are to testify. I would suggest that you take with you a stenographer, for if you dictate notes they will

be of much value to you in the future, especially if the proceedings are of long duration and the buildings are likely to be destroyed prior to your giving testimony.

Next study carefully the neighborhood and surroundings, the present conditions and any changes that are likely to take place in the immediate future that will have their effect on values. I try as a rule to be able to describe (in a general way) every block contiguous to the property to be taken. When I testified in the Bellevue Hospital proceedings I was able to detail the character of every block from 24th to 32nd Streets on First Avenue and describe the character of the buildings. In addition I could tell the use of each pier and bulkhead on the East River from 8th to 32nd Streets. This covered a very wide area, but I found that it was of considerable benefit to me in giving my testimony, and I would advise this course wherever possible.

The next step in preparing a case is to make a careful study and analysis of sales made in the neighborhood. If much vacant property, or property practically vacant by reason of old buildings, has been sold, and you can get a line on the prices obtained, it is of very great assistance. If only improved property is sold the task is more difficult, for then you have to analyze the sales; that is, distinguish between the value of the land and the improvements.

If you have not made many sales in the locality, you will perhaps have had negotiations for property, and, I sometimes think, negotiations are of as much value as actual sales for the purpose of obtaining knowledge as to values. Failing to have had either sales or negotiations on your own account, you will find that there have been sales made by others, especially purchases and

sales by operators. In times past, and even now, I have had the valuable advice of men who actually invested their money or disposed of their property. Of course, in suggesting this plan I am assuming that before any attempt is made to qualify as an expert you have had years of experience and, if not a wide knowledge of values in a given locality, at least a wide acquaintance with men whose opinions are worth more even by reason of their purchases and sales, not as brokers, but as principals.

While a competent expert may not have to adopt this plan, it is of great value to the expert in the beginning of his career and it is well to start in this way. With an experience of many years, covering every section of Manhattan and including some of the largest cases in the city, I always adopt these methods if I am not absolutely certain of my ground, feeling that a little extra work beforehand is better than to exhibit any uncertainty on the witness stand.

An appraiser should also acquaint himself as far as possible with existing leases, mortgages and projected improvements in the neighborhood of the property in question.

Speculative Values

It is also important that the expert keep himself well posted as to current values, especially where increases have been sudden. The expert must learn to differentiate between a permanent rise and one that is evanescent or purely speculative. Striking illustrations of this are the Carnegie boom and the rise in the Pennsylvania Terminal section. Following the first Carnegie purchase in February, 1899, there was a rush to buy on Fifth

Avenue on "Carnegie Hill." This continued far into 1902, and yet I know to-day of many instances where owners are trying to sell at a great discount or are holding their vacant property paying large interest and charges hoping that the figures at which they purchased will be reached again. On the other hand, there has been a rise in the Pennsylvania Railroad section and Times Square, where prices have jumped by leaps and bounds until it is very difficult for an expert to keep in touch with the ever increasing values. These values have continued to rise and will continue to increase by reason of such substantial improvements as the Pennsylvania Railroad Station, the New York and New Jersey Tunnel Terminal and the establishment of other subways and means of transportation in the immediate neighborhood. It is difficult to discriminate between such permanent and stable values and the fictitious prices which are the result of a purely speculative movement. A thorough study of the cause of these sudden rises will enable a competent expert to decide whether these values will fluctuate or remain stationary.

Objection to Rules

There is a general tendency, I think, on the part of many expert appraisers to follow certain general rules for appraising property. In some cases, of course, it is advisable to use certain rules, as I shall point out later, but for the most part I have found that the judgment of an expert is very much better than any fixed rule. It has been my experience that no rule will apply to any great number of cases. The City Tax Department has certain rules for appraising lots of a greater depth

than the standard lot of 100 feet. There is another rule for appraising a short lot known as the Hoffman Rule. I doubt if it was practicable even at the time when Judge Hoffman established it, which was, I think, in 1866, but of one thing I am certain—it is not practicable at this time. A short lot must be valued according to the conditions that surround it. The Hoffman Rule gives a greater value, in proportion, to a short lot than to a standard lot. As an illustration, it gives a value to the part of the lot 25x50 of $6,700 when a full lot is worth but $10,000. In a tenement house district, it is scarcely necessary for me to say, a part of a lot 25x50 cannot be adequately improved as, under the Tenement House Law, a rear yard with a depth of at least 12 feet is required. There are a number of other instances throughout the city where I could point out the impracticability of these rules.

Interior Lots

It is always a difficult matter to fix the value of interior property. By interior property I mean such property, situated in the centre of a block, as has no ingress or egress. There was a recent case tried in the Borough of Manhattan, in which no decision has been reached, of a triangular plot in the rear of the center line of the block connecting with two lots fronting on the street. The owner claimed that by reason of this connection with the street, which was the more prominent of the two streets, that the value given to the interior plot should be of the same value as that of the value on the prominent street. To illustrate more clearly, let us suppose the owner owned two lots on 23rd Street, each

100 feet deep, and a triangular plot in the rear, the point of which reached nearly, but not quite, to 22nd Street. The contention of the owner was that this triangular portion should be given the value of the 23rd Street property by reason of its connection with it. I took the other side of the question and claimed that the triangular portion should only receive value in proportion to the 22nd Street lots. Had this triangular portion no ingress or egress whatsoever, I would have appraised it as interior property and would probably have deducted in proportion one-third of the 22nd Street value had it not been for this connection on 23rd Street. While I was not willing to value the property as 23rd Street property, still, having in mind its connection with 23rd Street, I allowed full 22nd Street value, although it had no frontage on that street.

Three Classes of Testimony

There are three divisions of expert testimony, as follows:

First: Condemnation proceedings.

Second: Certiorari proceedings for the reduction of taxes.

Third: Court proceedings to determine the value of property of lunatics, infants and other Court charges.

Consequential Damage

Now taking up the first of these items I would call attention to the fact that one of the most difficult problems of condemnation proceedings is that of consequential damage. Consequential damage arises, say, in a plot of

ten lots in one ownership, five on each street, when for some purpose eight of these lots have been taken, leaving two lots, one on each street. Manifestly the value of these two lots remaining is not nearly so great in proportion as the value when in a plot, as they are not so susceptible of improvement. The same case, of course, would apply to property that is improved where a part of a building is taken; the remaining part of the building often is not as valuable in proportion as it was before part of it was destroyed.

One of the most interesting cases along this line that I have had confront me was that of several inside lots where a proceeding for widening of an avenue necessitated taking some of the lots, a portion of the inside lots thus becoming a corner. The question then arose as to the measure of damage sustained by reason of taking this property. The owner's experts claimed that he was entitled to the full value of the property taken, while, on the other hand, I first fixed the value of the property at the time of the commencement of the condemnation proceedings. I had maps drawn showing that while the condemnation proceeding would take part of the inside property, it would leave the owner with a prominent corner, thus obtaining by condemnation what he could not obtain by purchase, as he had been unable to buy the corner plot. In addition, he gained a very wide avenue front for his property, and where the neighborhood had been inactive the improvement greatly enhanced the property for business. In view of this change of situation, I valued the remainder of the property at a great deal more in proportion than I had the original property. I then deducted the value of the remainder of the property from the original value of the entire property, the difference, in

my opinion, being the measure of damage sustained by the owner. This theory is supported somewhat by the Charter of the City of New York (Section 822), which provides for this method of fixing damages in acquiring water-front property, and why it should not apply to other properties I cannot see.

Water-front Property

It has been the policy of the city for a number of years past to acquire water-front property, and as it is almost invariably acquired by condemnation, you might be called upon as an expert to testify as to its value. The value of the upland is not so difficult to determine, due weight being given to its contiguity to the water front. The land under water is more difficult to appraise, and necessitates a study of the grant under which the riparian rights were acquired. The value depends very much upon the amount of improvement necessary by the grantee before he can avail himself of the privileges of the grant. The value of a bulkhead is not difficult to establish. The Charter of the City of New York (see Section 859) provides for the amount of wharfage and dockage which shall be received, and also provides for the number of boats that can lie at any wharf at one time, so that these facts being given, it is merely a question of how much the bulkhead can earn. However, the grant itself, as I have stated, is the governing factor in cases where riparian rights are involved.

Leaseholds

The value of a lease or leasehold very often enters into condemnation proceedings. To fix the value of a lease or

leasehold is very difficult and must be governed by the conditions and terms under which the lease is held. There is a rule for appraising leaseholds which I think is fairly well established. This rule is:

Capitalize the value of the leasehold property at the time of the execution of the lease on the basis of the rental at four, five or six per cent, as the case may be. Ascertain the fee value of the property at the present time, the difference between the two signifying the difference in the fee value. Calculate on a four, five or six per cent per annum basis, as the case may be, on the difference in the fee values for the unexpired term of the lease, and the result will be the value of the unexpired term of the lease.

Condemnation Proceedings

In condemnation proceedings you will often be required to testify as to the damage caused by the right of way through property, such as a railroad over the property or a subway under the property or a damage caused by the raising or lowering of the grade of a street. It would be impossible to point out any specific rules governing these cases, as each one of them has to be figured in accordance with the conditions that surround them.

Condemnation proceedings are for the most part acquirements by the city for its own use, or by large corporations contemplating semi-public improvements. In appearing in these proceedings you should bear in mind that owners whose property is to be acquired will make every effort to take advantage of the necessity of the purchaser and will almost invariably endeavor to procure

prices much in excess of the value. On the other hand, it should be borne in mind that the owner may suffer extraordinary damage by reason of the forced sale of his property, and a more liberal allowance should be made in these proceedings than under ordinary circumstances. If you are appearing for those condemning the property, you will find it much better to make a liberal allowance than to appear to lower the value, for the Commissioners will be aware of the hardship that it often entails in taking property without the consent of the owner. In fact, it is often taken despite his protests.

Tax Proceedings

The next form of expert testimony is that of certiorari proceedings for the reduction of taxes. Up to the year 1903, it was a popular fallacy that property in the city of New York was assessed at two-thirds of its actual value. Assessors, commencing the first Monday of January, 1903, were supposed to assess property at its full value. Immediately afterwards a law was passed requiring, beginning in January, 1904, the assessor to divide his assessment between land and building. Then, indeed, did chaos reign in the tax office. Gradually since that time conditions have improved, but the assessors for the most part are not versed in values, nor do they have the proper time in which to do their work. The consequence has been that many actions have been brought to reduce the assessments, sometimes unjustly, the tendency of everyone being to feel himself overtaxed. It is the duty of the real estate expert employed in these cases first to ascertain the value of the property, and then to decide if the proceedings should be continued or not. This, while

it entails a large amount of labor, is not necessarily difficult. But there often arises a question of inequality of taxation which is much more difficult to solve. I have examined and appraised something over one thousand pieces of property in the Borough of Manhattan, and from my appraisements of these properties, scattered throughout the borough, I am of the opinion that in the year 1903, property was assessed at 77.5% of its market value; in 1904, 73.8%; in 1905, 71.5%; in 1906, 74.4%. An unexpected corroboration of this fact occurred in the recent appraisement of the property of the Consolidated Gas Company, when I appraised seventeen hundred tax lots throughout the Borough of Manhattan. At the time of my appraisement of these properties, I did not look into the matter of their assessed valuation. It was a curious coincidence, therefore, that when, during my examination, the question arose, in an attempt to discredit my testimony, as to the ratio between my appraisal and the assessed valuation, it was found upon comparison that this ratio was about 75%. This was a direct substantiation of my statement that the properties were assessed at 74.4% of their valuation in the year 1904.

Court Proceedings

The last division of expert testimony is that as to the value of real estate in the matter of the sale of property of a lunatic or an infant which has to be confirmed by the court. This does not require extensive preparation, so I will not detain you with that, although an expert should not be less careful or conscientious in these cases. However, the examination need not be as extensive, as cross-examination is generally perfunctory.

Capitalization

As correct appraisal is necessarily the basis of expert testimony, I desire to call your attention to the fundamental principle of appraising, and that is capitalization. Capitalization is the basic principle of valuing real property. If the land be unimproved, it is a question of the value of the land and the character of the building that the neighborhood justifies, the cost of production, and the income the property will produce when adequately improved. If the property be improved, the first thing to be done in arriving at the value is to fix the value of the land and then capitalize the property on the basis of its rental value. The difference between the value of the land and the gross amount as capitalized from the rental will give you the value of the building. Assuming the land to be worth $25,000 and the building—a tenement —rents for $6,500, I would capitalize the property on a basis of 10%, or $65,000, and deducting $25,000 as the value of the land, leave the value of the building $40,000. Of course, when I make 10% the basis of calculation, I do not mean that this holds in all cases. It would depend on the character, kind and condition of the building, whether it were new or old, whether it were a loft building, a residence, office building or apartment house, its location and surroundings, and as to whether it was an adequate improvement or not.

While I have said that capitalization is the basic principle of valuing real property, I do not wish to be understood as saying that it is the only means of ascertaining values, but in my opinion it is the most accurate way. It is seldom that the structural cost of a building adds that amount to the market value of the land. In other

words, the land value being fixed, what will a purchaser pay for the improvement? As an illustration that cost of construction will not add that amount to the value of the land, let us assume that a building similar to the Waldorf-Astoria be erected at the corner of Second Avenue and 34th Street instead of Fifth Avenue and 34th Street. It does not admit of discussion that the market value of the building would be very greatly reduced no matter what may have been the cost of construction.

Ratio of Rental Value

The average ratio of rental to fee value differs; generally, in an office building it is 8% gross, in an elevator apartment house 12%, in a flat or tenement 10%, in a residence 7%. Of course, these ratios may vary. There are many cases where there is no revenue, as in the case of residences occupied by the owners. It is then the duty of the appraiser to ascertain the rental of similar buildings in the same location. After long experience as an appraiser it is not difficult to appraise the value of a building or buildings from general knowledge, even if the rental value be unobtainable. Sometimes the value can be arrived at by a certain cost per cubic foot on different classes of buildings, but I do not consider this is a good method of appraising, and would only advise its use when it cannot be avoided, for it is a return to a structural value, and I think should only be adopted where the building is used for a specific purpose and the rental value cannot be determined.

In conclusion, let me say that there is no branch of our profession in which you will be more criticised or your motives more misjudged than that of expert appraising.

Yet, if you will arm yourselves in the way that I have outlined and appraise conscientiously, never allowing yourself to be guided by the opinion of an owner or his attorney, and will take only cases in which you are allowed absolute control as to values, you will forestall much criticism and at least have the approval of a clear conscience.

HOW PROPERTY IS ASSESSED

LAWSON PURDY

Effective Tax Boards—Block System—Field Work of Assessors—Traffic as a Factor of Value—Corner Lots—Using Floor Area—Correcting Assessments—Previous Sales—St. Paul Plan

THE precise form of the organization of the assessing department of a city must depend more or less upon the size of the city, but the principles which should underlie the organization are the same in every city and in country districts as well.

The administrative head of the assessing department should be appointed and not elected, and should be removed at the pleasure of the appointing power. Associated with the administrative head of the department there should be a sufficient number of commissioners, who, together with him, shall act as a board of review and pass on all questions which should properly be submitted to the board rather than to a single official. In small cities a board of three members would be sufficient, and two of them might receive a much smaller compensation than the administrative head of the department, as their duties would probably be confined to the reviewing work, which would take only a few weeks in the course of a year. In large cities the number may be increased as necessity requires. In the City of New York there are

seven members in the present board, and the number is sufficient and not too large to be effective.

The members of this board, including the administrative head, should be appointed and not elected, as it is desirable that there should be as few persons as possible to be elected in order that the issues presented to voters shall be simple and that responsibility may be centered. Objection is sometimes made against giving the appointing power the option to remove at will any appointee, on the ground that certain positions are essentially non-political, and appointment for a term of years frees the official from undue influence; but this system deprives the voters of control over their own officials by dividing responsibility, and it is the essence of popular government that the voters should at all times, or at frequent intervals, exercise the most effective and direct control over all public servants.

The assessors who perform the actual work of appraisal should give their entire time to their work and be engaged in no other business. They should be selected as the result of a competitive examination, which should be designed with care to ascertain their fitness for the actual duties they are called upon to perform; when appointed, they should be removed only for cause and after a hearing. The assessors should be sufficient in number so that no one man should have more than 10,000 parcels of real estate to assess. In a sparsely settled territory where the parcels of property are large, and in congested centers where the parcels are of irregular shape and values are high, the number of parcels which can properly be assigned to any one man may not be more than about 4,000. Each assessor should be assisted by a clerk appointed after competitive examina-

tion and removable only for cause. In large cities certain of the assessors may be assigned to executive work and a further force of clerks may be required in addition to the one clerk assigned to each field assessor.

Block System

In some cities and in nearly all country towns real estate assessment rolls are still arranged alphabetically instead of geographically, and in most country towns the assessment of the real estate of residents depends for its validity upon the correct designation of the owner. This system unnecessarily injects the personal element, occasionally invalidates the assessment, and worst of all, renders comparison of assessed values exceedingly difficult. Moreover, the alphabetical arrangement depending upon the correct designation of the names of owners requires a separate roll or a different method for the assessment of the property of residents and non-residents. Altogether, the alphabetical system has nothing to commend it, unless it be a necessity caused by the absence of proper maps.

Accurate maps are the foundation of a good system of assessing real estate. The maps should be prepared in accordance with the block system, similar to that in the City of New York. This system is applicable to both city and country. An example of its use in country districts and cities as well may be found in the Cadastral System in the Province of Quebec. The entire province is divided into cadastres, the boundaries of which are unchangeable. Within each cadastre the lot numbers are changed as necessity requires. The system in the City of New York was first established to provide properly for

the recording and indexing of instruments affecting land, by Chapter 166 of the Laws of 1890. This system was established for the assessment of real estate by Chapter 542 of the Laws of 1892.

Briefly described, the block system of assessment in the City of New York is as follows: A land map of the city was prepared under the direction of the commissioners of taxes and assessments, upon which was exhibited in sections and section numbers, and block and block numbers the separate lots or parcels of land taxed within each of the city blocks. Each lot or parcel of land shown on the map is designated by a lot number. The lot numbers commence in each block with Number 1 and continue numerically upwards for as many lots as are comprised within each block. The word "block" as used in this system designates a plot or parcel of land wholly embraced within continuous lines of streets or streets and water front, and may be more than a city square, but generally does not exceed 200,000 square feet in area. Blocks are numbered from number one consecutively upward. The numbers never change and the boundaries never change. The city is further divided into sections the boundaries of which are unchanging, and which are numbered consecutively from one up; each section is about three or four square miles in area.

On the assessment rolls the blocks appear consecutively and within each block the lots are placed in accordance with their location on the streets, commencing at one corner and proceeding continuously along each side of the squares which constitute the block. Any lot may be located rapidly and certainly, either on the assessment roll or on the map. For the convenience of the assessors, the maps are bound in volumes of suitable size with a

key map in the front; the scale of the key map being from 300 to 700 feet to the inch and the scale of the official map being 50 feet to the inch.

The block system has not yet been extended to cover the entire City of New York, but it is being extended as rapidly as the work can be done and the street system becomes sufficiently permanent to establish unchangeable block lines. In the territory not yet covered by the block system the maps are temporary and are called tentative maps. As these maps cover territory held in large parcels, much of it farm land, the scale somewhat varies, being from 80 to 200 feet to the inch. So far as practicable, however, the same system applies in the territory only tentatively mapped. Every lot is numbered, and its position is designated by a number on the map and by ward, plot and map numbers. The length of all boundary lines is shown on the maps in feet and inches, and on valuable lots of irregular shape the area is shown in square feet; on larger parcels the area is shown in lots or acres.

Field Work

Beside the map books, each assessor should have field books containing columns for the final assessed values for several years; a wide column for remarks, and columns showing the name of the owner, if known, the size of the lot, the number of houses on the lot, the size of each house, the number of stories in height, the street number and the lot number. Above each block should appear section and block numbers, and the number of the volume to correspond with the number of the volume of the assessment roll. In New York each section is divided into volumes and the volumes are numbered from

one up consecutively for each section. The volume numbers change from time to time as it may be necessary to increase the number of books in which the record is made.

Part of the office system should be the preservation of all records giving evidence of value. The card index system is probably the most convenient, and this should show, as nearly as may be, all conveyances with the consideration, and if the number is inadequate, a record should be kept of all mortgages, contracts of sale and more important leases. In the remarks column of his field book the assessor should set down such matters of record and any further information in regard to value that he himself can secure. On both the assessment roll and record book there should be a separate column for the value of land, exclusive of improvements.

When the assessor is equipped with map and field book filled with all available data, he should first determine the value of the land per front foot for the unit of depth, which in New York is 100 feet. It will generally be found most convenient to set down this unit value of land on the key map in the map book. Having determined the front foot value of land 100 feet deep, the actual value of each lot is very quickly ascertained. When lots are irregular in width and depth, when lots are shorter or deeper than 100 feet, the value must be ascertained in accordance with a scale which experience shows is suitable for the particular city. It is always the case that land near a street is worth more than land further from it, for all city land is valued in proportion to the character of the street on which it fronts. A city block may be defined as a parcel of land entirely surrounded by streets, and the nature of this street frontage determines the value.

Importance of Traffic

The flood of travel along the streets surrounding the block is, in the main, what determines the value of the land within the block. The larger the stream of travel, the greater the land value. This is particularly true in the business portion of the city. In residence and manufacturing districts, it is not so much the stream of travel along the streets surrounding the block as it is the short, direct connection by means of the street in front of the block with the main streams of travel along the main streets. The similarity of the streets of a city to a river system consisting of a main stream and its branches all the way back to the little brooks and rivulets is striking, and if it be borne in mind, the problem of determining land values is much simplified.

Corner Lots

Corners are always more valuable than interior lots, and the relative value of a corner to an interior lot depends upon the value of the two streets on which the corner lot fronts. The greatest increase for a corner lot is at the intersection of two streets of equal value, and the increase for the corner diminishes from this high point to a point where one of the intersecting streets may be regarded as adding no value in excess of the value of an easement of light and air. Generally, it will be found that the increment due to a corner position extends 100 feet in each direction from the corner. The extent of the corner influence and the ratio of increase should be determined in view of the conditions in the particular city from the best evidence obtainable, and

appropriate basic tables or scales should be prepared for the guidance of the assessors. It will probably be found that these scales vary but slightly in different cities, probably no more than in different parts of the same city. When the scale is once established and popularized, it not only states a present fact, but to a large extent determines future values, because land is bought and sold on the basis of value established by the scale. This fact is shown by the experience of New York, where for many years the Hoffman Rule has been in common use for determining the relation of the value of part of a lot to a whole lot. Although the Hoffman Rule is crude, it has undoubtedly a large influence in determining the actual price for short lots.

Factors of Value

When the assessor has determined and recorded the value of the land exclusive of improvements on each lot in his district, or in a section of his district, he will proceed to determine the value of the improvements. To secure uniform assessment of buildings and other improvements, it is necessary to establish what may be called factors of value. Architects and builders generally estimate the cost of a building by its cost per cubic foot of contents, counting from the bottom of the excavation to the top of the building. This system is impracticable for assessors because it is too complicated and requires information not readily ascertained. It is impracticable for the assessor to obtain the height of all buildings, to say nothing of finding out how deep they are below the sidewalk.

Using Floor Area

It is practicable to determine with substantial accuracy the number of square feet of floor surface on each floor and the number of floors, because the size of a building can be ascertained by measurement or from the building records. In the case of many buildings, the size is almost unvarying for the class to which they belong. There are, in fact, comparatively few classes of buildings, and it will be found easy to determine accurate factors of cost for each class. For example, in the City of New York office buildings are rarely to be found to exceed $8 per square foot of floor surface, and tenements built under the new law, six stories high, will not vary very much from $1.40 per square foot of floor surface. In determining these factors it is convenient to include as part of the building area the area of interior courts and wells, which are generally uniform for each class of buildings. In the case of an office building, for example, it is usually the fact that all of the land is covered by the building that can be covered, and the entire area of the lot may be regarded as the area of a single floor. The amount of the factor is, of course, fixed in accordance with the method determining the area.

In the case of a tenement house built under the present tenement house law in New York, large interior courts must be left open, but it is convenient to take the extreme depth of the building multiplied by its width as equivalent to the floor area. In using these factors for the value of buildings the assessor has ample opportunity for the exercise of judgment, as the factor will show the cost of reproduction, and a proper reduction

must be made for depreciation when the building is old, or for unsuitability when the building is no longer an adequate improvement of the site. In most of our cities population is increasing so rapidly, and business sections press so fast upon residential sections, that the suitable character of the building for the site on which it stands is one of the most important considerations in determining its value. It is no uncommon thing in the City of New York for buildings in perfect repair, which would last for 100 years, to be torn down to make way for more modern structures. Such buildings add little or nothing to the value of the land, and their cost of reproduction is no measure of present value.

Correcting Assessments

It is a fundamental principle of our law that notice to taxpayers is necessary for a valid assessment, and there must be an opportunity to apply for correction. There is a notion quite commonly entertained and absolutely erroneous, that a board to hear complaints can be so constituted that it can secure a fair assessment. No board for the correction or review of assessments has ever existed that can do very much to correct a poor assessment. In the City of New York there are over 480,000 separately assessed parcels of real estate. The greatest number of applications for correction since the consolidation of the city has been about 10,000, or only a little over two per cent of the whole number. With so large a number of applications as 10,000, it is almost physically impossible to give to each application the attention it deserves, and this statement is made with full knowledge of the fact that not more than one application

in five has any merit. If all the 10,000 had merit, and all could be acted upon with sufficient time and intelligence, there would then be corrections as to only two per cent of the total number of assessments. In spite of the fact that a board of review has very little value as a means of correcting a poor assessment, it may have very great value indeed in performing the most important function of securing a better assessment the following year if the board of review is composed of the same men who direct the work of the assessors. In some cities, the board of review has nothing to do with the assessment they are called upon to correct, and the experience they gain is practically thrown away, whereas the experience gained in hearing complaints and passing upon objections is of the utmost value to those who direct the work of making the next assessment. Where the assessing department has a single administrative head or is directed by a board, the man or men charged with administration should be members of the board of review.

Previous Sales as Guides

The value of anything which can be reproduced indefinitely can never long exceed its cost of reproduction. The value of land, on the other hand, is a monopoly or scarcity value. It depends upon the supply and demand. The supply cannot be increased, and the demand is therefore the changing factor. If one has to consider the value of a chair or a table, he is aided by the knowledge that it can be reproduced for a certain sum, but to ascertain the value of land, he is confined to the inquiry as to what other people think it is worth and what they therefore

will pay for it. Each particular sale of land is merely evidence of what certain persons think the land was worth. The price paid may have been influenced by considerations peculiar to the particular sale, and the price paid is never conclusive evidence of value. Sometimes a man is pressed for ready money, and sells a piece of land for less than it would bring if more time had been devoted to the search for a purchaser. Sometimes a man desires a particular site to enlarge a parcel he already owns or for some other reason, and because of his desire for that particular site he is compelled to pay a larger price than one would pay who merely sought a piece of land of like location and character. To determine the value of land with the greatest accuracy, it is necessary to secure as nearly as possible the opinion of value of the largest number of persons who help to make the market, either by being themselves buyers and sellers or the advisers of buyers and sellers.

In view of these conditions the greatest problem before the assessing department is as to the best way in a given time and place to secure the benefit of the community opinion of value. It is obviously necessary, in the first place, to popularize the terms used in expressing the value of land. If one man says the value of land so situated is so much per square foot and another says it is so much per front foot, and one man uses the term front foot value to express 100 feet deep, and another to express 50 feet deep, it is obvious that there is no comparison between the different statements. It is for this reason that it is so important to use a unit which never varies, such as the value per front foot 100 feet deep. Moreover, this value must have reference to an inside lot and not a corner, for it is the value per front

foot 100 feet deep of an interior lot on each of the connecting streets which determines the value of a corner.

St. Paul Plan

Different methods have been employed in various cities to secure the widest expression of community opinion as to the value of land for the guidance of the assessing department and the best method must very likely be determined with reference to the conditions of the particular city at the given time. A method which will work admirably in a city of 100,000 inhabitants may be impracticable in a city of four millions. In the City of New York for the last five years the assessed value of real estate has been published by sections in convenient form. These publications have been quite generally bought by persons interested in real estate, but the extent to which this method has contributed to the expression of opinion in regard to value is not fully satisfactory. Some years ago, in the city of St. Paul, Mr. William A. Somers invited all persons interested in the assessment of the city to attend in a large room where maps of the city were exhibited. On these maps the value per front foot, 100 feet deep, was set down on each side of every block. Criticism was invited of those unit values. As a result of the criticism the values were changed until they were substantially approved by practically all those in the city who had a well-informed opinion as to values. The assessment of the land of St. Paul that year represented the consensus of opinion of those who knew what the land in St. Paul was worth.

This same method was tried in the city of Cleveland with a view to securing an accurate statement of the

value of land in the city for the purpose of aiding the assessing board over which the authorities of the city had no direct control. The experiment in Cleveland aroused much interest and is said to have been a success. In cities of a larger size it might be difficult or impossible to secure the necessary co-operation to render this plan successful. I am inclined to believe that in many cities the best plan will be to publish maps of convenient size showing the unit value per front foot, 100 feet deep, of the land on all sides of every square, and wherever the unit may change on the side of any square. These maps should be bound in pamphlets, each pamphlet covering so much of the city as may be convenient. The maps or map pamphlets should then be distributed to those best informed in regard to land values with a request for criticism. One real estate broker may be exceedingly well informed as to the market value of land in a very small section of the city and may know comparatively little of values outside that section. Some brokers have records of great value covering a large section of the city, and consequently are able to give excellent advice as to value in larger sections. If sufficient interest could be aroused to secure the co-operation of those whose opinions are worth consulting, their suggestions might be very useful to the assessors.

To-day in the City of New York, the assessments, especially in certain parts of the city, are regarded by those best informed as exceedingly good evidence of value. The more generally assessments are regarded as being accurate, the more would those assessments tend in themselves to establish the values they are designed to record. If confidence is established in the work of the assessors and interest in their work is extended to

a larger and larger number of people, the work of the assessors will constantly improve by more nearly reflecting the consensus of community opinion, and the assessments themselves will tend to establish and determine the opinion of the community.

MORTGAGE LOANS ON REAL ESTATE

G. RICHARD DAVIS

Definition of Mortgage—The Standpoint of the Lender—Guaranteed Mortgages—Borrower's Point of View—Broker's Position—Participating Mortgages —Objections Raised—Value of Plan

A MORTGAGE on real estate is a written instrument—in effect a deed of trust, and so called in many States of the Union—given to secure the repayment of a loan, as evidenced by the bond accompanying the mortgage. The form of mortgage commonly in use in this city has been more or less standardized by the title insurance companies, and other large investors. It usually contains clauses reciting when interest, taxes and assessments should be paid; fire insurance, receivership, and demolition clauses; and various other provisions for the protection of the lender. A mortgage is a valid lien against the property described therein, whether recorded or not, but failure to record the mortgage makes it subordinate to any lien filed or other recorded claim against the same property.

As first mortgages embody all the principal points of value in a discussion of mortgage loans, this article will be confined to a consideration of them only.

The Lender's Standpoint

First mortgages are a most desirable form of investment. Their interest return is higher than that of other

equally high class securities, and their non-fluctuating quality, both as to interest and principal, commends them at all times as a conservative form of investment. The objections to investment in mortgages are:

(1) The inability to realize readily on such investments.

(2) The trouble sometimes experienced in collecting interest due; the necessity of investigating yearly if taxes and assessments—always liens prior to a mortgage — are paid.

(3) The comparatively short duration of mortgages as compared with State, municipal, or railroad bonds, with the consequent necessity of reappraisal of the mortgaged property at the expiration of the mortgage, with the possible necessity of reinvestment elsewhere, often with a loss of interest in the interval of non-investment.

The advantages before outlined have, however, been material enough to attract millions of dollars each year to this form of investment. The remarkable stability and constant rise in real estate in New York City have been a safeguard to investors that has practically prevented any loss of either principal or interest.

The chief and most difficult point for the investor in mortgages to determine is: the value of the property. The rate of interest, proper examination and insurance of title, and the drawing and recording of necessary papers also must have attention.

It has been said that in appraising property for a loan a more liberal figure should be placed upon it than if the appraisal is made with the object of determining immediate selling value. This to a certain extent is true. The immediate selling value of a piece of property may be agreed on and the purchaser may be willing to pay

such a price, but in five years' time as the mortgagee may argue, the property will depreciate in value, and demands a conservative valuation for the purpose of a loan. The converse, however, is also true, and in this city has proven true more often than the former. Property has generally shown an increase in this city in almost every section, and has, in good locations, more than offset the depreciation which has taken place in the building itself. It is, therefore, quite possible and proper that in valuing property for the purpose of a mortgage loan, the elements of time, depreciation and appreciation, should be taken into consideration, and should be factors in determining the loan. It should be admitted that a loan of 75% of the value of property in a superior location, with a high class improvement upon it, is better security, and apt to be a more conservative loan five years thereafter, than a two-thirds loan on property poorly located and poorly built, where the depreciation of the improvement will not be offset by the increase in land value. Such is the argument which some of our largest lenders on mortgage have used in valuing property for lending purposes, and the theory has been more than justified by the results in practice.

Guaranteed Mortgages

To remove most of the objectionable features of mortgage investment, companies have been formed, and have most successfully proceeded to take mortgages and assign them to investors, guaranteeing the payment of principal and interest, and assuming all responsibility for their collection, and for the various other necessary functions the mortgagee finds so burdensome. A charge of ½%

per annum is made for the guarantee company's services, and this comparatively small fee has made this form of mortgage investment so popular that in the past three years the sale of guaranteed mortgages has increased to double what it was the previous three years.

The Borrower's Standpoint

In New York City, a majority of property owners regard a mortgage on their property as a necessary evil. They prefer to own three pieces of real estate, each with a substantial mortgage thereon, to owning one piece of property free and clear. This view may be much influenced by the fact that where property is owned as an investment a larger return can be obtained on the equity if mortgaged for, say, two-thirds of its value at a comparatively low interest rate.

To obtain a mortgage, one must know where to go to borrow. The title companies, the savings banks, insurance companies, and a multitude of estates and individuals, represented by attorneys or agents, are constantly looking for investments, and to these the borrower applies. In a majority of cases the borrower desires as much mortgage on his property as he can obtain, consistent with the interest rate he desires to pay. A very liberal loan is often obtainable if a high interest rate is offered, but a borrower often is willing to accept a small and ultra-conservative loan, in consideration of a minimum interest charge. A borrower must be able to present his application for a loan in a favorable light, and to discuss intelligently the value of his property. It is, however, a common belief that a borrower can rarely serve his own interests as well in applying directly for a

loan to a principal, as by employing a professional mortgage broker.

The reasons for this are obvious. It is the business of the broker to know those who are lending money; to be posted as to interest rates; to know the preference each lender has for a particular type of property or a particular location.

The broker's professional acquaintance provides him with the entrée to many lenders where the stranger would find difficulty of access and a less attentive ear. The broker's opportunity to keep posted as to values, makes his advocacy of the desirability of some particular loan carry weight that an inexperienced borrower would fail to impart.

The broker can, moreover, parry the often embarrassing questions of the lender by the truthful statement of "not knowing." The owner, who, must needs either prevaricate or state the fact if asked as to the condition of his property, the actual income and vacancies, and also what the property cost, this last data being all too often a guide for the investor in fixing value, may lose the desired loan while the lender misses a really good investment.

The mortgage broker is likewise of much assistance to the lender in helping to find him a good investment, and is a large factor in the mortgage investment business as it exists in this city.

The Broker's Standpoint

The mortgage broker's business is to obtain loans for the borrower, and investments for the lender. It is customary for the borrower to pay the broker's commis-

sion. It would seem then that he is really employed by the borrower, but the good broker draws no such distinction. He tries to harmonize interests of both lender and borrower, to the sacrifice of neither, and to his own future advantage by retaining the good will and opinion of both.

The properly equipped mortgage broker must have a wide acquaintance among lenders, and be able to command their attention and interest in his applications. He must constantly watch the records of mortgage investments, keep posted and remember how big a loan was obtained on certain properties similar to that on which he is seeking a loan; the interest rate, terms, etc. The broker must watch the new buildings in process of erection and have an acquaintance among the builders, so that he may obtain their application for loans on the properties when completed. This is the most prolific source of opportunity for mortgage investment in this city, and the broker who can command a wide range of applications for loans on new buildings of desirable types, in good neighborhoods, is much sought by lenders, and accordingly popular with borrowers.

The broker should direct his efforts as much toward inducing the borrower to accept a reasonable loan, as he should in obtaining a liberal loan from the lender. Ability to present intelligent and obvious reasons to a borrower why a certain offer of loan should be accepted, and to the lender why a certain loan should be made, will always bring the best result.

In presenting loan applications care should be taken to express therein all accurate information obtainable, and to leave out any statements that are untrue or exaggerated. Nothing is so detrimental to a broker's suc-

cess in obtaining loans as wilfully or carelessly to overstate the facts. On the other hand, a broker must be optimistic. The greatest professional asset of the mortgage broker is to have the reputation among borrowers of being able to judge correctly as to what loan can be obtained and, furthermore, to be able to deliver to the lender such loans as the latter offers to make. Nothing so harms a broker's reputation with the investor as to be unable to deliver applications which the latter accepts from him.

It is obvious therefore that the broker should be well posted, not only as to the amount of loans being made by the various lenders, to the prevailing rates of interest, and as to the various lenders and their preferences for particular locations and classes of property, but also to a reasonable extent, about building construction, rents, locations, etc. The determining point, however, in all mortgage investment, about which all argument centers, and to establish which all information is sought, is value—what is the property worth. The borrower sets a value on his property, and the lender confirms or refutes the owner's statements by an appraisal, made by some competent authority in whom the lender has confidence, or perhaps relies upon his own judgment. The broker must be able to discuss with both borrower and lender the question of value, so as to reconcile the generally different views of the two parties. The more conversant a broker is with the methods of appraising and determining the value of property, and the more convincing his argument, the greater his chance of success. Often he is thereby enabled, by showing the borrower that the latter's judgment of value is inflated or the lender that his, or his appraiser's judgment of value is

over-conservative, to accomplish a meeting point of ideas as to a fair valuation, and to negotiate the desired loan.

A broker's office should be equipped with a system of records indicating where new buildings are going up, what mortgages are daily recorded, and a record of all mortgages, with the dates on which they become due. By this latter method it is possible to interview by call or mail, owners of property whose mortgages are past due and who may be influenced to take a new loan, either from necessity or from a desire to borrow more money, obtain a lower interest rate, or more favorable or different terms.

Participating Mortgages

It often happens that the lender desires to hypothecate his security, that is, borrow money on the mortgage which he holds, and is unable to assign the mortgage for the full amount that it secures. If he is able to borrow 90 per cent of the face of the mortgage he secures the remaining 10 per cent by taking a participating interest in the mortgage. Sometimes mortgages from the inception are made in this way, one party holding the first interest, and another the secondary or junior interest, subordinated to the prior interest.

Participating in mortgages is of recent date, and originated with the title companies. When they found that they had on hand large numbers of mortgages which they were carrying and unable to dispose of separately to various clients, they went to investors, and, offering as collateral, for example, a million dollars' worth of these mortgages, borrowed perhaps $800,000 to $900,000 upon them. As security for these loans, they assigned the

mortgages absolutely, with an agreement from the lender that when the entire principal was collected and the lender had received the amount due him with interest, he would account to the title company for the balance. This form of agreement has gradually become a standard one, and is now known as a participation agreement. This hypothecation of mortgages as collateral is perfectly legal and proper, and gives opportunity to the large life insurance companies, savings banks, etc., to invest their funds in first-class mortgages with first-class security. This form of investment then took another phase. The title companies and individuals, finding a ready market for first interests in mortgages, began taking mortgages at 5% interest and hypothecating them for from 80% to 90% of their face value at 4½%, the return on their subordinate interest being, of course, very large, as they made one-half per cent per annum on the whole amount.

A further development was the forming of companies to take these secondary interests. They would accept first mortgage loans, provided they could hypothecate with some individual or institution the first interest at one-half per cent lower interest rate, which gives them a large return on their secondary interest, which is, in effect, a second mortgage.

There has been much criticism against this new development in the mortgage business, due to the fact of the obvious deception that might be or has been practiced upon innocent third parties, who, having no knowledge of the first and secondary interests in the supposedly first mortgage, purchase property, thinking that they have on it a *bona fide* first mortgage, whereas at the end of three or five years they find a secondary interest must be paid off.

The objection to this method of arranging mortgages can be readily overcome by simply recording the participation agreement. If this is done every purchaser, when he searches his title, will find this agreement of record, and will know exactly the status of the mortgage on the property he is buying. Although there is no law to compel this, it should be insisted on by the first interests to prevent misrepresentation. An affidavit from the holder of the mortgage, stating that he held the entire interest, or how it was actually held, would cover the same point.

The Need for Participating Mortgages

It should be admitted, therefore, that participating mortgages are a benefit and perfectly proper, and that the objection to them lies in the present method of handling them, and not in the participation itself. A number of institutions have refused to participate, but if it could be shown to them that the participation agreement was of record and there could be no moral reason, as there surely is no legal one, why they could not loan on a first mortgage as collateral provided they hold an absolute assignment of the mortgage, and physical possession of the papers, including bond and mortgage, title policy, fire insurance, etc., their objection to this form of mortgage lending might well be removed.

When borrowers, lenders, and real estate investors are thoroughly acquainted with this new phase of the mortgage business, participating mortgages will become more popular if the methods of handling them are amended. The mortgage business in New York has assumed such vast proportions that the means of obtaining loans, and particularly of financing of the enormous building opera-

tions started in New York, must be improved, and the participating mortgage is a progression.

It is to be hoped that the investing public in general will, in the near future, be educated to participating in mortgages themselves, so that instead of having only a first and secondary participation, we may be able to have a hundred participations of $1,000 each in every $100,000 mortgage.

In Paris, mortgage bonds or participating bonds are as salable as our railroad bonds are here. The obtaining of large amounts on mortgages on New York real estate will be less troublesome only when the French methods of mortgage investments are adopted in this city.

MARGINS ON MORTGAGE LOANS

GEORGE A. HURD

Legal Restrictions—Practice in Europe—Necessity for Close Appraisal—Rentals as a Factor—Influence of Panics—Depressed Values—Changes in Neighborhood—Deterioration of Buildings—Delays in Foreclosure—Prices at Forced Sales

THE margin of security on any particular real estate mortgage loan depends on the needs of the borrower and the willingness of the lender to meet those needs. As a result of this many loans are made for only a small percentage of the value of the property securing them, because the needs of the borrower are small. In any community, however, and on any class of property, the greater part of the mortgage business consists of loans approaching the limit of safety, as that limit has been ascertained by experience. This is the natural result of the competition of lenders. Since the limit of safety must be closely approached in a mortgage business of any size (unless extraordinary attractions are offered to borrowers through low rates), it becomes of the highest importance to examine not only the margin required by general custom or by law for trustees and institutions, but also the separate elements of risk against which the margin is to guard.

We are not considering second mortgages, or first mortgages which are made for an exceptionally large percentage of the value of the property in return for exceptionally high interest rates or commissions, the latter being, in effect, the combination of an ordinary first mortgage and a second mortgage in one transaction; nor purchase money mortgages where an unusual percentage of the selling price is allowed to remain on mortgage as a special inducement to effect a sale, such transactions being outside of the ordinary scope of the mortgage business. Disregarding such exceptional cases then, it may be stated that the smallest margin required by law or observed by custom anywhere in the United States is on New York City mortgages, where loans by trustees are limited to two-thirds of the value of the security, and this legal provision has established that percentage of the value as a proper one to be followed by other mortgage lenders. The loans of savings banks in New York City are further restricted to 60% of the value of the property, and it is only a few years since the law restricted savings bank loans to 50% of the value. In the largest American cities, other than New York, 60% of the value is not often exceeded—that is, in such cities as Chicago, Philadelphia, Boston and St. Louis, while loans on the best class of security in smaller cities, and the best type of farm loans in such States as Ohio, Illinois or Iowa, are limited to one-half of the value of the security. In the smaller cities a still larger margin is generally required on residence loans which are ordinarily from 25% to 40% of the value of the security, and about the same percentage is loaned on farms in the more remote or less highly developed agricultural districts.

Practice in Europe

It is interesting for purposes of comparison to examine the requirements of margin which are met with in Europe, in different countries, and on different classes of loans. If we disregard the advances of the Russian government to its peasants, which have amounted to 75% of the value of the land in Russia, and 90% in Poland, we find that the only companies or associations ever allowed by law to loan more than 66 2-3% of the value, the usual limit on land, and 60% on buildings, are the Hamburg Association, founded in 1782, which could loan up to 75%, and the Deutsche Grandschuldbanke in its loans on city property. In Germany, generally, the limit is 66 2-3% of the value, though the Prussian Central Boden Credit, one of the largest of their mortgage companies, is limited to 50% of the value of buildings and 66 2-3% of the value of land, while on vineyards and forests the limit is 33 1-3%. The Deutsche Grandschuldbanke, of Berlin, is limited on farm loans to 60%, and the Bavarian Mortgage Company, of Munich, to 50%. Other German companies are restricted to 50% of the value of the property, or to 60% of the land value and 50% of the value of the buildings. There is quite generally a tendency in Germany and Scandinavia to distinguish between the land value and the value of the buildings. This is, no doubt, largely due to the fact that their loans are commonly for a long period of years, the terms of 50 and 75 years being by no means unusual there, and the depreciation of buildings from age during the life of the loan being very considerable.

Turning to other countries, the Credit Foncier, of

France, is limited to 50%, except on forests and vineyards, where the limit is 33 1-3%. In Italy the limit for mortgage companies, originally placed at 50%, was raised in 1881 to 66 2-3%, though the loans of associations are still kept under 50%. In Russia the St. Petersburg Credit Association is limited to 50%, and the same is true of the associations in Belgium, though the mortgage companies there loan up to 66 2-3%. The largest mortgage company in Austria is limited to 50%. In Denmark the companies are limited to 60% on land and 50% on buildings, while the associations are limited to 50% on land and 40% on buildings. In Norway the limit is 60% on all farm loans and loans in Christiania and Bergen, while it is 40% to 50% in other towns. In Sweden the limit is generally 50%, though the Stockholm Mortgage Company has been raised to 60%. In Argentine and Mexico the limit is also 50%. The limitation in Germany is sometimes expressed in terms of rentals, the German Mortgage Bank of Berlin, for instance, being limited to ten times the official assessed income in cities, and twenty-five times the assessed income on estates, and the South German Mortgage Company to twenty times the net income.

To summarize the result of an examination of the margins required in different countries, it may be stated that the limitation on loans varies from 25% to 75% of the value of the security, and that with few exceptions the limitation varies between 33 1-3% and 66 2-3% of the value.

To those who are familiar with the small margins required on short-time banking loans based on collateral consisting of high grade stocks or bonds, the margins required on mortgage loans are likely to seem unneces-

sarily high, and this point of view on the part of bankers and investors has led to serious losses. On the other hand, through laying down fixed and severe rules as to the amount of margin required, without examining the reasons for it, opportunities have often been sacrificed for meeting what is really a reasonable and conservative demand. While many of the same factors are present in farm loans, it is of loans on city property that I wish especially to speak. The margin on city loans to insure safety must be sufficient to cover the following six elements of risk:

Importance of Accurate Appraisal

First: Errors of judgment in appraising the value of the property. Since each piece of real estate stands by itself, there can never be a "market value" for it in the sense that there is for bonds or shares of stock, where each sale is representative of the value of the entire issue. The valuation of real estate must rest on opinion only, and while it may be comparatively easy for an expert with full information to value real estate correctly in an active market, in a market where transactions are few the difficulty is very great. In order to have appraisals of any value, a real estate expert must have at his command a large fund of information in regard to sales of property, rentals of property and the cost of construction of buildings, since these are indispensable to a proper valuation of real estate. It is not always easy to obtain information in regard to the consideration for sales, especially in New York City, where the practice is growing of setting out a nominal consideration of one dollar in deeds conveying property. The insertion in deeds of fic-

titious considerations must also be guarded against, such considerations being sometimes met with where the amount has been placed below the actual selling price, in the hope of obtaining a lower assessment for purposes of taxation, and more frequently placed at a figure above the selling price in the hope of giving the property a fictitiously high value.

Rentals

The selling price of property ordinarily reflects the rental of the property, which is the source of its value, but this is modified by the prospect of the future rental of the property. And there is an apparent exception to the rule that values follow and are based on rentals in the case of high-class residences in a high-class district, which seldom rent for a reasonable return on their value. This is no doubt due to the fact that ownership of such a property, which gives the owner its permanent occupancy and is paid for in the form of interest on the cost, makes this worth more per annum than the temporary occupancy of the house, which is paid for by the tenant in the form of rental. Disregarding vacant city land, which may be said to have only a future or speculative value and is not accepted as mortgage security by any mortgage company in Europe, nor by conservative companies in this country, the ordinary method of appraisal of improved property is to add to the estimated land value the present cost of the buildings, with an allowance for age and depreciation. The aggregate of these values should always be checked wherever possible by capitalizing the net rentals of the property, after deducting expenses of all kinds, to find if the building's

commercial value is equal to its structural value. Wherever a building is misplaced or badly designed, loss of income over a period of years is a sure result; and examples could be given of many expensive buildings, the cost of which has been entirely thrown away, as is shown by the fact that the net rentals produced by them have been less than those produced by adjacent properties improved with buildings of trifling cost. The structural value of the improvements, considered by itself, is therefore an entirely unsafe guide in such cases.

On the other hand, to rely on the net rentals alone would be unsafe, since different classes of property are capitalized on a different interest basis. For example, a retail store property rented on long lease to an entirely responsible tenant might be capitalized on a basis of 5% net return, where a tenement house with a large number of tenants and corresponding vacancies and difficulties of collection would naturally be capitalized at a considerably higher rate.

Influence of Panics

The second point to be considered is that mortgage loans ordinarily cover so long a term of years that general financial and commercial depressions during the life of the loans cannot be foreseen, and loans should have margin enough to cover the shrinkage of value due to this cause. A period of general industrial depression has a powerful depressing effect on real estate, but this effect varies greatly on different classes of property. When a mortgage loan is made for a term of years, if the borrower pays his interest and complies with the covenants of the mortgage in regard to taxes, insurance, etc., the principal of the loan cannot be called, nor can additional

security be called for, no matter what the decline in the value of the property mortgaged may be. A great distinction is thus apparent between mortgage loans and ordinary bank loans; and when a loan is made for the usual term of five years, it should be borne in mind that the property, to furnish adequate security, should at all times during the five-year period show a comfortable margin above the amount of the loan.

We are familiar with the recurrence of panics every twenty years, with intermediate depressions of less violence at ten year periods. The effect on real estate of these greater and lesser panics is, however, not directly commensurate with the financial and commercial disturbance which they cause. A reason for this is probably to be found in the fact pointed out by Mr. Adna F. Weber, an eminent authority on the growth of cities, that the growth of population of American cities has, ever since the foundation of our government, been conspicuously greater in the alternate decades coinciding with the lesser or intermediate panics. The result of this has been to offset the effect of intermediate depressions, as far as city real estate is concerned, by the abnormal growth of city population coinciding with that general period; while the relatively slow growth of cities during the decades coincident with the greater panics, aggravates the depression of real estate following those panics. During the period of depression following a great panic, every community is forced to restrict its expenditures to the most necessary objects, and the result of this is that the classes of property within a city which maintain their value best are the two indispensable classes of business and residence. All properties devoted to special uses, such as theatres, clubs, hotels, churches, etc., as well as

factories and warehouses especially suited to a single line of business, suffer severely. During such a period, also, all properties which on account of the growth or movement of a city, have a value based on expectations of the future, are greatly depreciated, since the future value is largely eliminated. This applies especially to suburban land, or that at the circumference of a city which is just coming into use, and is aggravated if the growth of a section has been artificially stimulated by capitalistic influences.

Depression of Values

The difficulty of valuing property during a period of depression is greatly increased just at the time when, through falling rentals and values, it is most necessary to be careful in making mortgage loans. This difficulty arises partly through the number of real estate transactions being greatly reduced and information from this source thus largely cut off, since no property owner will sell under such conditions except through necessity. And also because of the difficulty of forecasting future rentals where vacancies exist, it is a matter of the greatest difficulty to judge whether these are to be temporary or long continued. To avoid the difficulty which arises from a lack of information about sales, the most feasible method is to prepare a scale of relative values for a city, so that a few real estate transactions in different localities will tend to show the drift of values, just as an inspection of the daily fluctuations of half a dozen prominent stocks tends to show the drift of fluctuations for the whole list of securities.

A further effect of a depression on values of different kinds of property not usually given sufficient considera-

tion, is the great difference which a reduction in the gross rentals of property makes in the net rentals where the expenses of the property are heavy, as contrasted with the slight effect which such a drop in gross rentals has where the expenses of a property are light. This is readily shown by contrasting a modern office building, which normally has expenses amounting to about 50% of its gross rentals—these expenses including not only taxes and insurance, but heat, light, elevator service, janitor service, etc. — with a store building of moderate height where the expenses do not amount to over 15% of the gross rentals, the owner having no expenses except taxes and insurance. If we assume a drop in gross rentals amounting to 30%, the drop in net rentals of the office building will be 60%, while the drop in net rentals of the store building amount to only about 35%. Since values follow rentals, the stability of value of a property that is less expensive to operate, tends always to be greater than that of a property which is more expensive to operate, and careful lenders are therefore disposed to exercise the utmost caution in loaning on large buildings, the expenses of which are heavy.

Changes in Neighborhood

A third point to be considered and guarded against is the possible loss of value through changes in the internal structure of a city. In retail business property this most commonly occurs through the advance of the best retail district in the direction of the best residence district; in wholesale property through changes in the location of wharves or railroad terminals, and in residence property

through changes of fashion or of transportation, and the encroachment of what are actually, though not legally, nuisances.

There is always going on in a city a movement of the retail stores in the direction of the best residence district, this being an effort on the part of the storekeepers to approach as closely as possible to their customers. As this district moves forward it leaves a vacuum behind it, which is filled later by wholesale or other uses which are inferior from a rental standpoint. Unless the growth of a city is so rapid as to make its wholesale property worth as much as retail property was a few years before, there will be an actual drop in the value of the property so replaced by wholesale; and this has commonly occurred. Where there has been a change of axis of the main retail business streets of a city, there has always occurred a shrinkage of the values created by an anticipated growth of the business district in the line of its original direction. Many examples are to be found in American cities of the best retail business streets being parallel to a lake or river front during the growth of the city up to a population of perhaps 50,000, while after that point in population has been passed, the concentration of the best residence district at a distance from the water front has drawn business out toward these residence districts on lines at right angles to the water front and to the original business streets.

As regards wholesale and warehouse property, the chief danger to be guarded against arises, as I have said, through changes in the location of transportation terminals. The natural tendency of wholesale property is to place itself between its transportation facilities and the best retail business district, so that it may at the same

time be able to handle its goods cheaply and yet be in a location convenient for its customers. Where the wholesale business of a city grew up through river transportation, as for example, in Savannah, and Portland, Ore., it is noticeable that of late years the predominance of railroads has been so great as to withdraw wholesale business very largely from locations occupied by it for half a century, with an increase of value near the railroad terminals and a corresponding decrease of value near the wharves.

In the case of residence property, purely social reasons are the predominant ones in establishing high values, and property of this character is, for this reason, liable to depreciate through changes of fashion. Changes of transportation are also of great importance in determining residence values. Improvements in street-car facilities enable people of a good social class to live at greater distances from the business center of a city and among surroundings which are pleasant. The general tendency of our street railway improvements of the last twenty years has been to equalize the value of residence property over considerable areas, and as a result of this to depreciate residence property which is close to business property, while rapidly enhancing the value of property further out, which is well located topographically. Residence districts at a distance from the business center of a city have an element of stability in the fact that they are less likely than those closer to the business center to be injured by the encroachment of nuisances. In the term "nuisances" may be included buildings for every kind of utility except residence, since homogeneity is necessary to the maintenance of value in a residence district.

Deterioration of Buildings

The fourth element to be considered is the depreciation of buildings. Mortgage loans are usually made for a long enough term to have the improvements lose appreciably in value from age and the wear and tear of usage during the life of the loan, except in cases of the most expensive construction. The loss through depreciation where a building is kept in good repair is estimated at ½% a year for the highest type of fireproof construction, and increases for different classes of buildings to a maximum of 5% a year, or even more, for cheaply constructed workmen's cottages. If improvements are not kept in good repair—and it is practically impossible for a mortgagee to compel repairs to be made—the further depreciation from this cause must be added. In addition to the depreciation of buildings through age, there frequently occurs a further and more serious depreciation, due to changes in style or new methods of construction, or to a change of utility in the location. An example of such a change of style in detached residences has been the abandonment of the mansard roof, once popular throughout the United States, with the result that residences built in this style of architecture depreciated heavily in value, regardless of the soundness of their structural condition. Other changes in fashion affecting residences are the abandonment of narrow hallways and of stained glass and other exterior ornamentation, together with newer and better methods of heating and lighting houses.

As regards business property, the erection of modern fireproof buildings frequently takes away a large part of the value of the older buildings with which they com-

pete; and the failure of architects formerly to plan their store buildings with the ground-floor frontage all open for the display of goods has greatly depreciated the value of older buildings, or has led to their reconstruction along modern lines at large expense.

There is still a further element of depreciation which comes where there is a change of utility in the location. If a residence property has become suitable only for business, the value of the improvements disappears entirely; and the same is true of any such change of utility, subject, of course, to the possibility of saving a portion of the value of existing improvements through their reconstruction for a new purpose.

Losses in Foreclosure

A fifth point to be considered is that of the accumulations pending and during foreclosure, including the period of redemption, if there is one. The amount loaned on property, practically speaking, is not the face of the loan, but the amount of the debt with all its accumulations at the time of realizing on the property which has secured the debt. These accumulations are usually made up of delinquent interest, delinquent taxes (with penalties and a high rate of interest), delinquent street improvement taxes (with penalties), court costs, attorneys' fees, repairs after obtaining the property, and a real estate commission for selling which varies from 1% in New York up to 5% in smaller communities. In addition to these, there is the total or partial loss of interest from the time of commencing suit until the property is finally sold. In the aggregate these accumulations vary from 10% of the face of the loan to a maximum of 40%

in cases of small loans where the laws are unfavorable to lenders. These variations in the amount of the accumulations attract attention to a comparison of the laws of the various States in regard to mortgage loans. One of the common provisions in Western States, and one which adds largely to the accumulation, is the provision of law granting to the mortgagor a period after judgment of foreclosure within which he may redeem the property by paying to the judgment creditor the amount of the judgment with interest. This provision seems to have come into existence in States where mortgage loans on agricultural property predominated, with a view to avoiding the serious effect on farmers of a single crop failure; and since such laws must be uniform in their operation, they apply to loans on city property as well. This period of redemption varies from nine months in Nebraska and a year in most of the Rocky Mountain and Pacific Coast States, to eighteen months in Kansas and two years in Alabama. The effect of this law is to prevent outside parties from buying at foreclosure sales, since they cannot be sure that the property will not be redeemed by the mortgagor by payment of the judgment and interest, and also prevents a mortgagee during the period of redemption from improving the property and obtaining larger rentals, for the same reason. Where, as in a few of the Middle Western States, such as Indiana, Minnesota and Iowa, the mortgagor remains in possession during the period of redemption, the accumulation is much greater, since during this period the mortgagee is entitled to no rental return at all; and a further action at law may become necessary to obtain possession. Other legal features which affect the amount of the accumulations are those which permit in-

terest to be compounded; which permit penalty rates of interest, both on delinquent principal and interest, and large contractual attorneys' fees. Obviously, the element of time is the principal one, and where a mortgage may be foreclosed and the property obtained in a short time, the accumulations will be small. In this respect the laws prevailing in the Southern States are more favorable to lenders than those in any other part of the United States.

In Europe the advantage to lenders of being able to foreclose without delay is generally recognized, and the laws governing foreclosure have been in this respect carried so far that the Credit Foncier, of France, can obtain title to properties under foreclosure in eight days after default, and the Banco Hipotecario, of Spain, in two days after default.

Danger of Forced Sales

The sixth point to be considered is the loss of value through disposing of the property at forced sale, and through the injury to the reputation of the property caused by the foreclosure. Though properties seldom have to be bought by the mortgagee at foreclosure sales in Europe, it is still the common rule in the United States, largely owing to defects in our mortgage laws. As has been pointed out, the time necessary to obtain title or sell the property at foreclosure sale in Europe is generally very much less than it is anywhere in the United States, and is generally less in the Eastern and Southern States than in the Western. It is usually in the largest cities only, however, that there is any speculative market furnishing a demand for properties of all kinds at all times at a reduction in price from the normal value. Outside of New York City there is practically no

auction market for real estate, except in New Orleans and Norfolk, Va., and in most, though not all, of the smaller cities properties are sold generally to those who intend to use them personally. The disposal of foreclosed property as promptly as possible in order to realize on it, is the aim of most individual investors, and should be the aim of all financial institutions, since real estate, other than that needed for their own use, is not a proper asset for them to hold, as is recognized by law. For the reasons I have mentioned, where a quick sale is desired, a surprising difference will be found in different communities and on various classes of property, some cities having an active market which will absorb any good property offered at a price within perhaps 5% to 10% of its full value, while in other cities it is difficult to obtain within 25% of the full value obtainable under favorable circumstances.

Safeguards

It remains to suggest how these various elements of depreciation may be guarded against without demanding excessive margins on mortgage loans. Errors of judgment in appraising may be largely eliminated by trusting only to experts of approved ability and by concentrating responsibility upon them, testing and examining their work by its results. In the ordinary course of a mortgage business, if loans are not properly margined, the first sign of this will be an abnormal amount of delinquent interest, followed by an increasing number of foreclosures, before any actual loss occurs. These act as a warning that the business is not being properly conducted, as in times of ordinary prosperity there should be practically no foreclosures. The effects of a general

depression may be partially avoided by anticipating the depression as far ahead as possible, and either making loans for less than the usual term of years, or providing for a partial amortization through annual or semi-annual obligatory payments in reduction of the principal, so that only a small proportion of loans will be outstanding for their full amount when the panic comes. Special care should also be exercised not to rely on the selling prices of property during the period of inflation of values, which commonly precedes a depression. The effect of a general depression may also be minimized by skill in choosing the classes of property on which to loan, retail business property and single residences furnishing the most stable security during a depression, and in large cities multiple dwellings of the tenement type, followed by wholesale property, large office buildings, hotels, apartments, clubs, theatres and other special utilities in somewhat the order named.

Loss of value through changes in the structure of a city may be largely avoided by a study of the principles governing the growth of cities and by care in choosing the locations in which to loan. Business property maintains its value best when on a main axis of traffic, and residence property, when it is located in a large and homogeneous district of good social character, with good transportation facilities and an absence of neighboring nuisances. Depreciation through age, etc., should not be serious, if the cheaper classes of structures and those which, from the nature of their occupancy will have the hardest usage, are eliminated. Accumulations of delinquent interest, etc., can be reduced by bringing foreclosure suits promptly, and by avoiding those jurisdictions where the mortgage laws are exceptionally unfavorable.

Finally, the difficulty of realizing fully on property at a forced or quick sale, should always be borne in mind and allowed for, and property of a class that suffers unduly from this cause, such as suburban property or speculative holdings, should be avoided.

BUILDING LOANS

G. RICHARD DAVIS

Kinds of Building Loans—Loans in New York and Elsewhere—Speculative and Contract Building—Loan Associations—Operators', Owners', and Permanent Loans—How to Figure Building Payments

A GENERAL definition of a building loan might be that it is a loan secured by bond and mortgage on a piece of vacant property, for the purpose of giving to the owner of that property the necessary financial accommodation to assist him in the erection of a building upon his land.

The broker, builder and building loan investor, all of whom deal in building loans, have continued occasion to estimate how large a building loan may be obtained, or should be made, on certain projected building operations.

The lender and broker must also understand how to safeguard their interests, when and in what sums to advance money, etc.

In estimating the amount of building loan to be made, consider (1) the dimensions of the land; (2) the area or the percentage of the lot that the building itself will cover; (3) the height and general character of the building—that is, whether it is fireproof or non-fireproof, and the purpose to which it is to be put; (4) examination of the plans and specifications; (5) whether the building, if properly planned, is of a character suitable to the

neighborhood in which it is to be erected; (6) the financial responsibility of the builder and his general standing as a mechanic and constructor of well-built buildings; and last and most important, the value of the land and the cost of the contemplated improvement. All these points enter into the question of whether a building loan should be made and how much should be loaned.

Percentage of Lot

In figuring the percentage of the lot that a building will cover, deduct the area of the court, sides and yard space. The tenement house law in New York City will not permit a building built on an interior lot to cover more than 70 per cent of the area of the lot. On a corner lot there is no restriction placed on the percentage of area that may be covered, but the yard of the corner building must be 10 feet wide for a distance of 50 feet back from the street, and thereafter 2 feet wider, if the building be five stories high; and one foot more for each additional story that may be added, so that for a twelve-story building on a corner lot 100x100, the yard would be 10 feet in width for 50 feet of the depth, and 19 feet in width for the remaining 50 feet. The widths of courts and shafts are all dictated by the tenement house law. It is therefore possible, when all these laws are observed, only to cover about 80 per cent of a corner plot, unless it has an extreme amount of frontage in comparison to its depth.

Cubical Contents

To arrive at the cubical contents of a building, multiply the area of the building by the height of the building, measured from the bottom of the cellar to the top of the

roof beams, and you have the cubic contents of the building. In addition to this, add the cubic contents of all bulkheads, extensions over courts on first floor, or vaults under the sidewalk. Any accurate estimate of the cubic contents of a building should be based on an accurate measurement of the size of the courts and yards, so as to obtain the exact area that the building will cover.

The Use of the Building

Determining not only the general character of a building, but also the adaptability of a particular building to a particular site, are most important, as it would be obviously an ill-judged investment to finance the building of an apartment house on Broadway near Wall Street, or a large office building on Washington Heights. The best judgment of the lender must be brought into play in considering the proper improvement for a particular neighborhood, as upon this depends the success of the operation, and the lender, as well as the builder, needs a successful operation, if his business is to continue a profitable one.

The chief risk to the lender is the builder's failing to complete the building. A careful investigation of the builder's references, through material associations and other sources, will generally give the necessary information.

It is obvious that in the handling of building loans, practical knowledge of building and of architecture, to a more or less degree, is a requisite. The technical knowledge and advice of the engineer and architect are often required. In the ordinary types of five or six-story buildings, such advice is not necessary, except in special

work, such as deep foundation work, as the building loan man is supposed to have a general practical knowledge of how to build. But the lender of money for a building loan on a ten to twenty story fireproof building should employ competent engineering and architectural supervision and advice to see that the plans and specifications are correct and adequate, and that the building is built according to them.

Building Payments

In the making of payments, and in the conduct of the entire building transaction, it requires continuous, careful attention to, and expert knowledge of, the situation by the building loan man. Building payments are arranged in schedules and agreed on in advance in writing, but they are rarely lived up to, as builders often want money in different ways, and in more payments than agreed. A reasonable building loan man will let responsible and well-meaning builders have these accommodations, as no contract can be drawn which will cover all the necessities which arise in operations covering a period differing from six months to two years. It must not be supposed that loans of this kind can be obtained without more than the usual charge, both of interest and fees, than that made for permanent loans. The cost is governed by money conditions, and varies materially at times. Typical schedules of payments for different sizes of buildings are given at the end of this chapter.

Among the life insurance companies and other financial institutions which make this kind of loan, it is customary to charge a fee in addition to interest charges, sufficient to defray the cost of title examination, employment

of counsel, architects and engineers. They also are most particular as to the responsibility of the builders they loan to and in a number of cases insist on some substantial bond as guarantee that the building will be completed.

Throughout the entire handling of building loan operations, there is always risk of the builder's failing to complete his building. The number of failures among builders is proof of the fact that mistakes are constantly being made. Owing to the agreements among the workingmen's unions and among the material associations, it is very difficult to finish a building operation on which a builder fails and owes money to the contractors, without making a settlement with these unions, because they control the employment of labor and the output of material. Thus, although the failure of the builder may ruin him, it also falls heavily upon the man who has his money in the operation.

Loans in New York and Elsewhere

It may be well to draw a distinction between building loans as made in New York City and elsewhere, owing to the difference in the laws in other States regarding mechanics' liens and building loans. Speculative building, as we understand it in this city, is practically unknown outside. Buildings are, of course, put up by speculators, but they generally do not do the actual building work, as our speculators do, but let a contract for the construction of the building to a building contractor for a fixed sum. If they want to obtain a building loan they file their contract with the financier or the building loan company, which contract states specifically the exact cost of the building. The building loan company agrees to loan

to them, let us say, 60 per cent of the cost of the building. As the speculator or owner of the building makes payments to the contractor on account of the contract price, he obtains from his building loan company 60 per cent of the amount he has advanced, upon showing a receipt from the contractor for the payments and a release from the contractor of his right to lien. The lien laws in some States are such as to make the amount due a contractor during the progress of the building, a prior lien to every indebtedness of the property, whether there is a mortgage or not, except the city's claim for taxes, assessments, etc. Therefore the mortgagee dare not advance any money on the building until he knows that there are no liens against it; and to protect himself, he obtains releases in the form of affidavits from the owner and the contractor and subcontractor, if any, that there is no money due or unpaid them on the building, or else a waiver of their right to lien. These laws practically insure to the contractors the receipt of their money, whereas in New York State, the lien laws are very different, and no mechanics' lien takes prior claim to a mortgage unless it is recorded before the mortgage is recorded or before each advance is made under the building loan contract.

Speculative and Contract Building

Speculative building and contract building therefore are distinct branches of the building industry, and New York City and its suburbs seem to have a monopoly of the speculative builder, as we know him. Whereas, the contracting builder puts up the house with money furnished to him by the speculator or the owner, the speculative builder not only builds the house, but borrows the

money on his own name and credit to build it. The building contractor is primarily and only a builder and not a financier as well. His business is to know all about construction, materials, where and how to purchase them, and their relative cost, value and usefulness. The speculative builder must or should know all of these things and in addition be a financier, able to borrow money and to use his credit along more or less extensive lines to swing his various operations. The methods of the speculative builder here briefly outlined are made possible only by the high position which New York City real estate holds as a first-class security, the stability of which is unquestioned and the marketability of which, as compared with other cities, is immeasurably greater.

Building Loan Associations

In this country there are a number of building and banking loan associations which have established towns and villages through their financing methods. Some of the co-operative ones are most worthy and serve their purpose well in providing the workman with the means of building and owning his own home.

They lend their stockholders sufficient money to buy a plot of land and build a house upon it. By paying so much a month on account of this loan, in addition to the interest, the property holder gradually frees it from mortgage. In most cases the workman, after paying off, say, 50 per cent of the money he owes the association, is able to borrow the other 50 per cent outside at a lower rate of interest and for a long period, and pay off the association.

Other classes of building loan associations are those

formed by a few men for their own benefit and of purely speculative character. These men buy large tracts of land and exploit them, selling them to workingmen, paying dividends out of the principal, and when they fail, leave no assets.

Methods in Other Cities

In Philadelphia and Chicago, which are more nearly equal to New York, the method of financing building operations has more nearly approached French methods. In Chicago, several concerns have financed the building of fine apartment houses and business buildings, upon which they loaned from 50 to 60 per cent of the value. They have issued against these mortgages bonds due in from one to fifteen years with varying rates of interest, from 5 to 6 per cent. These bonds are sold to individual lenders in any amount from $100 upward.

In Philadelphia, two or three trust companies lend most of the money and in the form of permanent mortgages, from three to ten years, making the first advance when construction is started, and thereafter, as it proceeds toward completion, when the loan remains as permanent for varying periods. This latter form of mortgage is also common now in New York, and is what we call a building permanent loan or a permanent loan in building payments.

Big Operations on Small Capital

It is astonishing to people who have not gone into this subject, yet careful investigation shows that the building loan operators in this city have made it possible for a man with $5,000 to complete an operation involving $100,000. A number of these builders with lots of nerve

and little cash have come to grief; a number have built up a fortune and a reputation by just such methods, and the building loan operators themselves have reaped a golden harvest for the risk they have taken.

It has been possible for a man with little capital to finance a large operation, because the operator, the loaning institution, and the speculative builders all have had faith in the value of the property, and have believed it worth not only one hundred cents on the dollar at cost, but one hundred and ten cents for sale, and that each year will add to the value of the land, making up for the depreciation in the value of the building.

Building loans in New York City are generally made for one year at 6 per cent interest, secured by a mortgage on the property, known as a building loan mortgage, which has varied clauses, differing materially from other mortgages, and is accompanied by the necessary bond, and by a building loan agreement, which recites, as provided by statute, in what manner and form the building loan will be made. It is necessary to record this building loan contract as well as the mortgage, and thus give notice to those who sell material, or do contract work for the builder, how much he is to receive at various dates. The loan is generally made in several or many different advances, as the work upon the building progresses, and the building loan contract recites these various stages at which money is due.

THREE SYSTEMS OF LOANS

Discussing building loans as they are negotiated and made, let us take, for example, a specific case: Tenement houses are the most common form of speculative building

to-day. Two lots, aggregating 50x100 feet of land, will therefore be our unit for comparison and observation.

There are three ways in which building operations are financed in this city:

I. Operators' Loans

First, where land is owned by an operator and sold by him to a builder at a more or less material profit. To induce the builder to pay this profit a loan is made to him liberal enough very often to allow him, with little or no capital, to carry through a substantial operation. The methods of making a loan of this character are similar to those described below under Plan II. Under this first plan, the loans are generally more liberal. Moreover, when finally a permanent loan has been secured on the completed building, the operator is usually willing or obliged to take a second mortgage unless the permanent loan is sufficient to pay off his building loan mortgage claim. The amount of loan, and its terms, made by an operator is therefore governed materially by the profit he makes on the sale of his land, and cannot be compared to the loans made by building loan companies to builders who own their land.

II. Loans to Land Owners

Taking again the same fifty-foot plot as typical, let us assume that instead of belonging to an operator, it belongs to the builder, who desires to improve it with a six-story tenement house. He has previously purchased the land for $30,000. He paid $5,000 cash and gave the seller a purchase money mortgage for $25,000. He goes to a building loan company and asks for $30,000 to

assist him in constructing the house. The building loan company figures that the land is worth $30,000 and the building will cost $45,000, making a total cost of $75,000. If the company loans the builder $30,000, subject to a ground mortgage of $25,000, there will be a claim of $55,000 against the property, which will be more than 70 per cent of the cost. The company further figures that when the building is completed, the builder will not be able to borrow as a *permanent* loan over $55,000. It does not figure on what the builder will *sell* the property for, but what it will *cost,* and what permanent loan the builder can get. If the company is reasonably disposed, it offers the builder a loan of $25,000, subject to a ground mortgage of $25,000, making a total loan of $50,000, or two-thirds of the total value—the common first mortgage percentage. The *fee* for such loans is small compared with an operator's *profit,* and the amount of loan is figured on a different basis entirely.

When the builder makes application to the building loan man or company for a loan, the mortgage on the land is most essential in determining the amount to be advanced for building. If the builder had, instead of paying $5,000 cash, paid $10,000, his ground mortgage would be but $20,000, and a building loan of $30,000 would be equally as safe as a $25,000 building loan, subject to a ground mortgage of $25,000. If the builder had paid $1,000 on account of the land and had a mortgage of $29,000, the building loan man would not be justified in offering over $21,000, although this would be less than 50 per cent of the cost of the building.

These figures illustrate the first important deduction which brokers and lenders of building loans must consider. Loans where the land is *owned* by the builder,

must be calculated as if they were first mortgage loans, and the building loan must include an amount sufficient to retire the land mortgage. It makes no difference how much mortgage is on the land, so far as the amount of loan goes; if there is no mortgage on it, the builder may obtain all of the loan to use toward his building, but if he has a mortgage on the land, he will have for building purposes only the difference between the amount of the loan and the mortgage on the land. Therefore, whether the loan is to be made as a first mortgage loan covering the land mortgage and cost of building, or second mortgage loan, covering the cost of building only, it must always be calculated on the basis of a first mortgage loan.

Another important requirement in figuring building loan applications, is to be able to judge as to the amount of permanent loan that may be obtained on the property when the building is completed. There is no rule to judge this by, other than that of experience and investigation as to mortgages on adjoining property similarly located and of like dimensions and character.

The amount of the mortgage on the land makes a material difference in the manner in which the building loan payments are made. If the land is originally mortgaged for all it is worth, it is obvious that the builder has no equity in his property until he has reached such a course in the construction of it as to create one. For instance, if this 50-foot plot of land had a mortgage of $30,000, or for all it was worth, it would not be until the building was enclosed that it could be said that a reasonable equity of, say, $20,000 was created. The property would then be worth $50,000, and one might reasonably loan two-thirds of the cost at that time.

This is the theory (two-thirds of the cost), on which some building loan payments are arranged and based. Another, and a more conservative theory, is to hold back enough money at all times to complete the building.

Another vital fact in our discussion, is the cost of putting up the building. Without these figures one cannot form any judgment as to whether a loan is good or not and how the payments should be made. There is no exact rule for figuring the cost of building. The only absolutely accurate method is to take the plans and specifications of each building, get in bids on each contract, add them together, add allowances for extras, interest, carrying charges, etc., and the total is what the building will cost. But while this may be necessary for a builder to know, it is hardly necessary for the loan man or broker, because he can arrive at it by less accurate and easier methods, which vary according to the character of the building proposed. If, for instance, it is such a building as a six-story tenement, covering two lots—he may roughly figure at so much per front foot or per cubic foot.

In figuring the cost of fireproof buildings, the usual way is to figure by cubic contents only.

Sometimes building loan operators do not want to make entire building loans themselves, and they arrange with a building loan man or company to advance as much of the loan as the building loan company deems proper. The building loan operator makes the additional loan, by taking a second mortgage behind the building loan company's mortgage, as security for his advance. This transaction is carried on in the same way as the one just outlined.

III. Permanent Loans

The third class of building loan, and one previously referred to, is what is known as a building permanent loan, or a loan made as a permanent loan for three or five years, but advanced in building payments from the time the building is started. These loans differ from the previous loans principally because they are permanent investments, and are made only by people who seek investment. They are the most advantageous loans a builder can obtain as they insure a certain fixed amount of money to use in speculative operation and relieve him of the necessity on the completion of his building, of obtaining a new mortgage. Almost all of these loans are made by a few of the life insurance companies, and now and then by the title companies. It will be recalled that in speaking of the other two kinds of building loans, that the figures have been based on the *value* of the land at the time that the building is started, and upon the *cost* of the building. In figuring this third class of mortgage, which is a *permanent* investment, it must be figured on what the land can fairly be estimated to be *worth* when the building is *completed,* and what the building is *worth* —not what it *costs;* in other words, on the total reasonable market value of the completed property. This makes it possible to obtain a larger loan than the ordinary building loan, and constitutes the difference, in amount, between building and permanent loans. The rate of interest on such loans is generally 6 per cent during course of construction, and reduced to a lower rate after completion.

Most of the very large apartment houses, apartment hotels, and business buildings, involving large sums of

money and built by speculative builders, have been financed in this manner.

How to Figure Payments

The following schedules of building loan payments are appended, as tentative forms in general use by some of the large loaning companies:

In figuring the amount of money to be advanced on each payment, there are various methods. Every operation is different and must be figured independently. There is no exact rule for figuring payments. Some very general rules might run as follows: It costs 30 per cent of the total cost to enclose a five-story corner apartment house; 35 per cent of the total cost to enclose a six-story inside elevator apartment house, and 38 to 40 per cent to enclose a six-story corner elevator apartment house. It costs about 50 per cent of the total cost to enclose a fireproof apartment house, and about 60 per cent of the total cost to enclose a fireproof loft building. Office buildings may be figured on almost the same basis as apartment houses.

If these figures were to be used as a basis, it might be proper to consider, if the estimated cost of a six-story elevator apartment house, to be built on a corner plot 100x100, is $150,000, that it would cost 40% of this, or $60,000 to enclose the building. Then $40,000 would be two-thirds of the cost, and the proper advance at the time the building was enclosed on account of a building loan of, say, $100,000. In addition to this, the lender would also advance two-thirds of the value of the land, so that in an operation as above described, where the land was worth $90,000 and the building $150,000, a

building loan of $160,000 would be two-thirds of the estimated value, and the total of all payments made at the time the building was enclosed would aggregate $100,000.

Typical Schedule of Payments for a Six-story Elevator Apartment House

1st—When the side and rear walls are up to the second tier of beams, the second tier of beams laid, the front walls up to the first tier of beams, and the sewers into the building line, out of which sufficient money is to be retained to retire prior mortgage of ..... and accrued interest up to date of payment .....

2nd—When the side and rear walls are up to the fourth tier of beams, the fourth tier of beams laid, and the front walls up to the second tier of beams .....

3rd—When the side and rear walls are up to the sixth tier of beams, the sixth tier of beams laid, and the front walls up to the fourth tier of beams .....

4th—When the building is fully enclosed, roof watertight, cornices, skylights and copings on, leaders from the roof connected with the sewer .....

5th—When the fireproof floor arches are set in the first tier of beams, studding and partitions are set, rough flooring down, rough plumbing completed, steam risers, gas pipes, speaking tubes and electric wiring completed .....

6th—When the scratch and brown coats of mortar are on, rough lead work completed, tested and accepted

7th—When the white coat of mortar is on, stairs stepped up with temporary treads, stone work all completed, and boilers and hot water heaters set, elevator enclosure completed and elevator machinery in ...

8th—When the standing trim including base is completed, sashes in and glazed, tiling completed, excepting main hall on first floor, and yard and cellar cemented, elevator car delivered .....

9th—When the doors are all hung, except vestibule doors, steam heating plant completed, excepting radiators, mantels set, tubs and refrigerators in, sidewalks cemented, elevator car running .....

10th—When the building is completely finished, excepting decorations .....

Typical Schedule of Payments for a Twelve-story Apartment House

1st—When the structural steel work is up to the third tier of beams, and the walls up to the first tier of beams, stair strings started .....

2nd—When the structural steel work is up to the fifth tier of beams, walls up to the first tier of beams, and three tiers of floor arches set, and stair strings and risers set to third floor .....

3rd—When the structural steel work is up to the seventh floor, walls up to the third floor, and five tiers of floor arches set .....

4th—When the structural steel work is up to the ninth floor, walls up to the fifth floor, and seven tiers of floor arches set .....

5th — When the structural steel work is up to the eleventh floor, walls up to the seventh floor, and nine tiers of floor arches set, rough plumbing and heating risers up to sixth floor .....

6th — When the building is enclosed, roof on and completed, leaders up and connected with the sewer, copings, cornices and skylights set, all floor arches set, all stair strings and risers set, and rough plumbing completed .....

7th—When the plumbing is complete except fixtures, steam risers and branches are all in, boilers in and set, electric tubing in and the sleepers laid in five floors

8th—When all the partitions are set throughout the building, all sleepers and fill laid, and plumbing tested to approval of the loan company .....

9th—When the brown coat of mortar is on, elevator guides set .....

10th—When the white coat of mortar is on, jambs set, all sashes in and glazed, and the balance of the bathrooms tiled .....

11th—When the standing trim is completed, including base, doors hung, tile in main hall and corridor set, one-half of plumbing fixtures set .....

12th—When all the finished floors are laid, doors and other trim completed, hardware on, mantels set, elevator enclosure completed, and elevators in, plumbing completed, including fixtures, smoke test made, radiators set, elevator machinery in and stair marble set .....

13th—When the building is completed, including electric light and gas fixtures, in accordance with the plans and specifications to the satisfaction of this Company and certificates issued by the Building and Tenement House Departments and Board of Underwriters .....

STABILITY OF REAL ESTATE DURING PANICS*

WALTER STABLER

Financial Conditions in 1907 Affecting Real Estate—Mortgages in Panic Months—Effects of After Panic Money Rates—Bonds Versus Realty—No Money Lost on Mortgage

THE enormous development and building operations in 1905 and 1906, coupled with other conditions, resulted in higher rates for money. The imposition of the annual mortgage tax in 1905 raised the rates of interest about a half of one per cent. But, what had more to do with higher rates of interest than anything else was the enormous demand for money for every kind of investment. Five and a half and six per cent money became a regular thing, and it was supposed this would last for a very short time only, because it did not seem possible for it to continue. But it did last because of the enormous demand for money. About the time we all thought money would ease up—after the recording mortgage tax law was enacted—we found that this did not seem to help the situation; money became stiffer and stiffer, and in the latter part of 1907 the panic came when money was almost unobtainable. The life insurance companies, sav-

* Extract from paper read before Y. M. C. A. Real Estate Club, February, 1909.

ings banks, trust companies and title companies all seemed to shut up; they stopped lending, because they did not have it to lend—that was the whole story. The savings banks during the early days of the panic put the 60-day clause in operation, so that they could not have a serious run, and they began to call their mortgage loans as a matter of self-protection, because they might be called upon to pay all their depositors, and the securities they held had depreciated in some cases ten to twenty points. They could not be blamed for it. Those demands had to be met, and it was difficult to meet them.

The life insurance companies were called upon for almost the full amount of their income to meet policy loans, which their policy holders had a right to demand, and this took them entirely out of the lending market.

The trust companies were having troubles of their own; they had no money to lend daily borrowers; individuals who had money, hoarded it away for some good opportunity to buy things cheap.

Effects on Mortgages

And so if you have noticed the records of mortgages during the six or eight months that might be called the panic months, they were smaller than for years, and at higher rates of interest. As the panic passed away, money became more plentiful; then the thing happened that always does happen after a panic—money became a drug in the market, and that is the situation to-day (February, 1909). Rates are lower now than they have been for eight or ten years. That condition, I think, is likely to last until business development of all kinds takes place,

and improvements by the large corporations and the railroads have been undertaken again, so that there is need to borrow money.

The recording tax law has undoubtedly brought into the market a great deal of money that was never there before, because estates can lend money at 4½% net. Instead of being liable to taxation at local rates, they are free from tax, and that will encourage the investment of money in mortgages.

Future Conditions

How long this condition will last no one knows, nor can anyone prophesy with certainty; but I look for tighter money by the latter part of this year. I am told by bankers that it is tending that way now; but, mortgage money is not affected so quickly as that for other investments, and I think we may look for a very easy market for mortgage loans during this year and possibly part of next year. When the general development begins, I mean all over the country, building operations in other cities as well as here, you will find rates for money will be higher.

Realty Versus Bonds

The most gratifying thing about the panic to me, and I am sure real estate men in general, is the way real estate stood the shock. Stocks of all kinds were cut more than in half, many bonds were in default, and no interest was paid. But, when you look back over this period of stress and call to mind how little depreciation has taken place in real estate values, and see how few foreclosures there have been, it is very gratifying. I have not seen statistics on the subject, but I believe there

have been fewer foreclosures during this period than in normal times. One reason was that every lender of money felt it was his duty to the community to be as easy on the borrower as possible. That stopped a great many foreclosures. That cannot be said about any other form of investment. A West Side broker, speaking to me during the panic, said he had been approached by a customer to sell some real estate that probably had not paid as well as he expected. The customer was told it was not a very good time to sell. The owner said, "Why, I can sell anything else without any trouble," and the broker's reply was, "If you will sell your real estate at twenty-five per cent of the loss your bonds and stocks would show, I will sell it for you in five minutes." And that is the answer that can be given in regard to real estate in all sections during the whole of that time. Mortgage investors have lost no money. I do not believe there is a man who has had an honest, well-invested mortgage who has lost anything on it.

This lesson will have its effect on investors generally. I believe that the savings banks will put a larger proportion of their funds in mortgage loans, for the reason that they know that, while they might not be able to go out in the market and sell them in a hurry, they will not have to do any marking off, and are certain to get their money some time. The life insurance companies had to mark off their assets to the extent of from ten to fifteen, yes, to twenty per cent of the value of their bonds. While they were worth to them as much as before, in making their report to the State Department, they had to mark them off. With some savings banks and life insurance companies, it would mean insolvency if they had been obliged to sell securities at the market

price. That was not necessary with mortgages, and while holding them they have received one to one and a half per cent better interest than on other investments. A larger investment will be made in bonds and mortgages, I think, in the future than ever before, and that is, of course, always to the advantage of real estate interests generally.

OPERATING

ROBERT E. SIMON

Value of Real Estate History—Disregard of Precedent—Trend of Trade and Movements of Centers—Economic Studies—Creating Values—Vacant Land and Its Dangers—Building Financing—Acreage

THE real estate operator, at one time, was a drone in the community. He was really a real estate speculator, would buy to sell at a profit, but would do nothing himself to create increased value. To-day, realty operating is a profession, and the speculative side is very unimportant.

There are as many specialists among real estate operators as there are classes of property; in addition, there are those who deal in all classes of real estate.

The essentials for successful dealing in real estate are foresight and imagination, a reputation for honesty and square dealing; a thorough knowledge of the growth and development of the city, of the requirements and peculiarities of its people, and of its various centers; and last, but not least, capital. I put capital last because, with the other requirements developed, it is very easy to get capital in a big city. There are always a large number of people with idle capital to back the opinion of an expert. Many of our most successful real estate operators of to-day made their beginning in just this way, receiving a share of the profits for investing the money of others.

Must Know Realty History

How is one to gain the necessary knowledge? By close study of conditions as they were and now are in the thickly populated sections; by watching the shifting of neighborhoods, the increase of population and its sources, the increase of wealth and commerce and their sources and distribution; by trying to see where history should and would repeat itself and anticipate it; by studying the financing of real estate and profiting by the mistakes of others. In short, the successful real estate operator should be a veritable encyclopedia of the activities of his city, and particularly of his own section, if he is a specialist.

For example, it is evident that a wide street has a greater value than a narrow one in the same neighborhood. It affords more light and air; its capacity for handling traffic, vehicular and pedestrian, is larger. It is also evident that a long thoroughfare leading to and passing through important centers has greater possibilities than a short street, beginning at no particular point and leading to no specific place. So we find in New York that in turn Grand, 14th, 23d, 34th, 42d, and all the wide streets throughout the city and its suburbs; and Broadway, Fifth Avenue, and the other north and south thoroughfares are more or less important according to the sections they intersect; and that as a consequence, when a wide cross street intersects a prominent long thoroughfare, the junction is usually important, and the values at such a point are greater than any other in the vicinity.

But it is the value peculiar to each such intersection or neighborhood that commands study. The keenest fore-

sight reaps the largest profits. It is not so many years ago that the corner of 34th Street and Fifth Avenue went begging, and that the wiseacres shook their heads and wondered what the Tabernacle at 34th Street and Broadway could be utilized for at the price at which it was then held. And yet to-day both of these corners are worth and would find ready sale at many times the former prices.

Disregard of Precedent

Often originality and nerve will prompt a man, because of recognized peculiar conditions, to throw all precedent to the wind and win out. Just as Henry Siegel, in the face of the accepted opinion that the west side of a north and south thoroughfare is much better, built on the east side of Sixth Avenue, 18th and 19th Streets. Not only has the business been a marvelous success, but the entire east side of Sixth Avenue, from 14th to 18th Streets, has been benefited.

His reasons, no doubt, were as follows: Noticeably peculiar to that particular section between 14th and 23rd Streets, Broadway and Sixth Avenue, at that time, $1,500,000 was being annually spent by merchants in the advertising of dry and furnishing goods. This made that section the retail shopping centre of the city. Fourteenth and 23rd Streets were best between Fifth and Sixth Avenues; therefore it should be easy to draw some of the traffic to the east side of Sixth Avenue, as it was the nearest point between these important districts. It is readily seen that this same reasoning would not hold good everywhere. And so, again, owing to the Altman and Macy stores, has the lot value on the north side of 34th Street developed to equal, if not

greater, value than on the south side, although, with the exception possibly of 42nd Street, owing to the park, the land value on the north side of almost every other wide business street is worth one-half of that on the south side, or even less.

It is in this way that real estate history is made and should be studied.

Noting Trend of Trade

One usually finds that land in recognized centers, such as hotel, club, theatre and amusement, shopping, manufacturing centers, etc., has a peculiar value. Then it is necessary to know the requirements for proper improvements, such as the capacity of a building necessary to create a paying investment, the amount of land needed, the proportion which can be built upon, the cost of construction, the income desired, and the transit facilities. The center of population, which, in a growing city, is constantly changing, must be carefully watched to appreciate when it is time for a shifting of these centers for the convenience of the citizens. Comparatively young men have seen the theatre centers change from below Astor Place to Union Square, next to Herald Square, then Times Square, and now from Columbus Circle to Lincoln Square, with 125th Street and Seventh Avenue and 149th Street and Third Avenue as additional centers. So also have the hotels and clubs moved northward, as they naturally continue to follow the residential portion of the city.

Economic Studies

To be able to judge whether we have overproduction in housing facilities, the operator must be in touch with immigration, with the natural growth, and the increased

demand through marriages, etc.; also with the class of dwelling needed; whether we have too many high-class and too few cheap apartments; whether the scale of wages permits paying for better facilities, etc. All of these things are not the result of guess work nor chance, but of constant study, careful observation and application. This study also discloses the extravagances of a community, thus regulating the rentals of shops and stores, especially on select streets, such as Fifth Avenue and its side streets. As the land value is regulated by its income-bearing possibilities the wealth of the community is an important factor.

The financing of real estate is extremely important. It is, at times, complicated, depending largely on the class of real estate dealt in. This will be discussed later.

I have attempted to show how, largely by comparison, one arrives at real estate values, and why I put foresight and imagination first in my list of requisites.

Real estate operators can be divided into six classes: Those who deal, 1st, in business property; 2nd, in private residential property; 3rd, in apartments or flat property; 4th, in vacant land generally or land adapted to any specific purpose; 5th, in factory and stable property; 6th, in all kinds of real estate. Each class has its own peculiarities. The general rules which I have outlined apply to all classes.

Creating Values

Dealers in improved property can do many things to create additional value. They can modernize old buildings by putting in modern show windows, which will result in increased rental; by changing a loft to an office building, or vice versa; by changing an old dwelling

into a combination store and loft, office or bachelor apartment; by putting in a passenger elevator where there was none. They can increase income by reducing expenses, changing the heating plant, or taking out an old style hydraulic elevator which consumes coal summer and winter and requires a high-priced engineer, for one of the electric type. In private dwellings they can change the front and turn a high stoop into an American basement, put in modern plumbing, add an extension or another story, or install an electric elevator. In apartments they can change the combination or the number of rooms, modernize the entrance hall, redecorate, and put in open plumbing or steam heat; or furnish better elevator and hallboy service, etc.

In some cases no structural change is necessary. The operator can realize a profit by increasing the net return through procuring a more desirable mortgage, either in amount or rate of interest. Or he may buy the land, regardless of the value of the building, because he realizes that the property is worthy of a better or different type of improvement and figures on its demolition.

It is most important in purchasing improved property to be certain either that the building is or can be made suitable to the character of the neighborhood's needs. One must know the value of the structure. But very often, though the land has a fixed value, a purchaser will pay far in excess of this value, plus what it would cost to construct the building erected thereon. This is due to the income the building is capable of producing when the value of this property is figured on an income basis.

Many operators, anticipating a change in the neighborhood, rent an old building for what it will bring,

and carry the property at a loss until they can realize a profit from someone who will tear it down or alter it.

In changing neighborhoods, it is desirable to take less rental and have leases so arranged that they can be cancelled and possession had at a given time. Sometimes it is necessary, in order to find a tenant under these conditions, to stipulate a sum to be paid should possession be desired before the specified termination of the lease.

It is almost invariably the operator who discloses to the public the possibilities of a new section. He is the pioneer and deserves reward for his foresight. Not infrequently, however, he is too far ahead of the times; is unable to hold out until his anticipations are realized, and suffers losses. Take, for example, a man like Hammerstein, who foresaw the great future of 125th Street and built the Harlem Opera House and the now Proctor's Theatre near Park Avenue. He then anticipated the great theatrical center at Times Square and built the New York Theatre block on Longacre Square, between 44th and 45th Streets on Broadway. He had to sacrifice the 125th Street properties to try to save the Longacre, and then lost that. He was then laughed at for his follies; but it is only a few years ago that the New York Theatre was sold for less than a million dollars, and to-day it is worth much over two millions. Though many lost money on Fifth Avenue property, between 26th and 42nd Streets, to-day it is as scarce as rare diamonds.

Vacant Land

The improvement and financing of land where buildings are demolished and new ones erected are the same

as those of vacant land and will be taken up later.

The operator in vacant land has the hardest row to plow. His capital is invested with no return until the property is improved and rented; not only has he no income, but in addition, he has the carrying charges, taxes and interest, and sometimes assessments, increasing his cost daily. How this amounts up can best be realized by actual figures. Take a plot worth $100,000, mortgaged for $60,000 at 5%:

Interest on mortgage, per annum	$3,000.00
Interest on capital invested, $40,000, at 6% per annum	2,400.00
Taxes at 1.70	1,700.00

This amounts to $7,100 per annum, or about $19.50 per day, or 80 cents every hour of the day, not allowing anything for assessments, while he is waking or sleeping, and this increases or decreases in proportion to the value of the land.

In purchasing vacant land it is important therefore that one consider these carrying charges, for in case the property is not sold quickly the growth and future value of it should be sufficient to show a profit over and above the cost and carrying charges. In addition, the operator should know for what class of improvement the property is suitable, and how it could be financed should building be commenced.

Building Financing

Sometimes the operator buys and sells the vacant land and secures a profit. He may sell and only get back a part of his cash invested, and a second mortgage for the balance; or he may sell to someone desiring to improve

and agree to advance a share of the money necessary for the cost of the building; or he may not advance any of the construction money, but agree to go (with a second mortgage) behind such a sum borrowed elsewhere. The first two cases are very simple. In the third, the operator makes what is called a building loan; that is, he agrees to take back a first mortgage (only in very rare cases is a building loan made as a second mortgage) for a sum representing the mortgage on the land, plus an amount which he agrees to lend toward the construction of the building. As the building progresses the money is paid in instalments, called payments, which are stipulated and set forth in the building loan mortgage, placed on record.

In making such a mortgage, the operator has many things to watch for: first, that his builder-purchaser is competent and has a good reputation in the trade; second, that the building he purposes erecting is properly planned and suitable to the needs for which it is intended and the neighborhood in which it is to be erected; third, that the builder is financially able to complete the structure; and fourth, that his payments are equitably distributed, so that the builder will at all times have sufficient money to meet his bills and yet will not get more money than the value of the work done at the time of payment safely warrants. All of this takes a thorough knowledge of the real estate and building business and a keen head for financing.

The operator has various methods of financing a building loan: first, having sufficient money of his own to make all payments; second, selling the building loan in its entirety to someone who will take it over and make the payments either directly to the builder or through

the operator (in both cases the operator frequently guarantees the completion of the building); third, by hypothecating the building loan and borrowing a portion of it, financing the balance himself.

Owing to the recent stringency in the money market, it has become customary for the builder to try to procure a building loan which shall become a permanent mortgage when the building is completed. The building loan otherwise is a temporary mortgage only and comes due at a specified time after the completion of the building.

The operator often reaps large profits by purchasing a number of lots in an undeveloped section, selling off a portion for improvement and realizing a bigger price for the balance. He also creates value by taking land supposedly suitable for five or six-story buildings and improving it with six or eight or ten stories, thereby greatly increasing the income.

One other form of handling vacant lots in a fast growing section is to erect one-story stores. These bring in an income, stop the increased cost of land due to taxes and interest, and can be readily torn down when the neighborhood has developed. Such an improvement is commonly called a "taxpayer."

Acreage

Another field for operating in vacant land is the purchasing of acreage and its development into city lots, by cutting through streets, laying sewers, paving, etc. Such property is sometimes sold at auction before any physical improvements have been made, or sold in lots or plots, after improvements have been made, at auction or at private sale. Acreage property also must be care-

fully financed. The most desirable method, from the operator's standpoint, if he cannot or does not wish to pay all cash, is to procure a blanket mortgage, which is a mortgage covering the whole purchase, with release and substitution clauses; that is to say, with the holder of the mortgage agreeing to release any portion of the property desired from the blanket mortgage, and, if desired, taking a separate mortgage on the parcel so released.

Many operators sell these lots on the instalment plan, in which case the purchaser should be careful to assure himself before signing his contract that the seller has made proper arrangements to deliver the land purchased, free and clear, at the time the last payment is made. Sometimes land is sold where there is a blanket mortgage; then, when the time for delivering the deed arrives, the seller cannot give a good title, because he cannot release it from the blanket mortgage and has not money at hand to pay off the whole mortgage.

A good example of what can be done in the way of developing acreage property can be seen in the Hunts Point section of the Bronx, where about three thousand city lots are being improved by building only the best two family, four and five story houses, and even six stories with elevators. This has created a model section of the city, and increased land value from the price per acre to the price per 25 foot lots.

So we see that the operator has ceased to be a gambler and has become a potent factor in the development of social welfare. He is even a benefactor to the community. No one will dispute that the mere fact of his making a profit or good return on his investment detracts from the fact that he is constantly increasing

the income and credit of the city through the greater tax value he creates; that he is studying and experimenting to improve the housing conditions of the inhabitants; that he is furnishing employment for armies of workmen; that through modern construction, he tends toward increasing the business of the shopkeeper, merchant and manufacturer, and that he is accomplishing this through a legitimate business along scientific lines.

WHAT TITLE INSURANCE IS

PHILIP S. DEAN

Nature of Title Insurance—What Policies Guarantee —What They Do Not Cover—Character of Agreement—Actual Protection—How Policies Are Voided —Importance of Covenant and Warranty

TITLE insurance deals solely with titles to real estate and interests in and liens upon real estate. Its purpose is to guarantee owners and other persons interested against loss arising from defects in the title to such properties, or from the unmarketability of such titles. This guarantee is in the form of a policy and is issued by a corporation which, in this State, must have a minimum capital of $150,000.

The policy is issued after an examination of the title by experts in the employ of the company, and the person who is applying for the insurance is informed by an elaborate written report some days before he acquires the title, of the exact condition of the title as disclosed by the examination. The policy thereafter issued to him is substantially a contract by the title company that the title is in the condition shown by its report, and that if it is not, the title company will reimburse the assured for any loss, not exceeding the amount stated in the policy, arising from any discrepancy. The title policy contains four general agreements:

What Policies Guarantee

First, it guarantees that the title is marketable. The marketability of the title is its most important attribute, implying as it does that the title is one which a purchaser can be compelled by the courts to take. An owner having a policy insuring that his title is marketable knows that he can compel any person who contracts to take the title to fulfill his contract or, if the courts relieve him, the title company will stand the loss.

Second, the policy states and guarantees the exact condition of the title, and at a glance the owner is informed as to the liens on his property or any objections to the title.

Third, the policy is an engagement to pay the cost of any litigation affecting the property.

Fourth, the policy guarantees that if the assured sells the property with warranties, he shall suffer no damage by reason of any defects in the title, for which he would otherwise be liable on these warranties.

The amount in which the company will reimburse the assured for loss is limited to the amount stated in the policy. The policy is not assignable and protects only the assured. One reason for this is that only a single premium is exacted. There are no annual premiums on title policies.

Nature of Policy

The policy itself consists of a number of printed pages on which are written the name of the assured, the description of the property insured and the defects or incumbrances affecting the title, and against which the company assumes no liability. The description of the property is contained in what is known as Schedule "A."

Schedule "B" contains a statement of the defects and incumbrances against the title, and this schedule every assured should carefully scrutinize, or he may find the policy a disappointment. He should take nothing for granted. When an assured sells he should make a contract which conforms to the policy; that is to say, the contract should contain the description of the property contained in the policy, and the assured should not agree to sell except subject to the incumbrances and defects, if any, shown in the policy. Unless this is done, he may find he has lost the protection of the policy, because the insuring company only agrees to enforce a contract of sale made in accordance with the policy. The printed portions of the policy contain the conditions on which the insurance is made and are fair and unobjectionable.

Actual Protection

The actual protection afforded by the policy may be classified under two heads:

First—Where the title is good and marketable, and in the condition which the policy states; and

Second—Where it is not marketable and is not in the condition which the policy states.

In the first of these cases, where the title is marketable and in the condition stated in the policy, the only loss for which the insuring company will reimburse the assured is the cost of litigation to defend and enforce the title insured.

Incidental losses are not covered in this instance. A policy holder should understand this clearly. Take this instance: An assured desires to sell the property, title to which has been insured to him. He makes a contract;

the purchaser declines to take the title, affirming that it is bad. The assured may be delayed in obtaining the purchase money and in enforcing the contract, and suffer loss of interest or other incidental losses, consequent on such delay, but, assuming that the title is ultimately held by the courts to be good, the policy gives no other protection than covering the cost of the litigation necessary to compel the purchaser to take the title.

In the second case, where the title is not in the condition which the policy states, the company will respond for loss of every sort, incidental or otherwise, resulting from defects in the title, but not exceeding the amount stated in the policy; so that, generally speaking, in the case of titles which are defective, but which a policy has insured as good, the policy holder is reimbursed for all his losses, up to the amount stated in the policy.

How Policies Are Voided

All policies of title insurance require the utmost good faith on the part of the assured. They must notify the company, before applying for the insurance, of any questions affecting the title, of which they have notice, and their failure to do so may invalidate their policies.

After the policy has been issued, when a claim is made against the title insured, the policy holder must at once notify the company, in order that it may, at once, take such steps as it may deem wise to protect the assured and itself. It has also the absolute right to conduct any litigation with regard to the title, and the assured stipulates that his name may be used for this purpose, the company, of course, paying all charges of every sort incidental to such litigation.

The company also has the right, in case there is a defect in the title resulting in a loss paid to the assured, to avail itself of any covenant or warranty which the assured may have, giving him a claim against some other person, by reason of such defect. This is an important right which the assured is bound to preserve harmless to the company, and if he releases or impairs it, he may thereby invalidate his policy.

Title insurance companies cannot insure every risk that is offered to them. In this particular they resemble other insurance companies. They cannot risk their capital by the assumption of unusual and extra hazardous risks. It is their aim, and, of course, is greatly to their interest, to insure every title that is offered, and they are resourceful and ingenious in suggesting ways of curing defective titles and aiding owners to perfect their titles, so that they may be insured. A title once insured is a likely source of future profit to the company. Having once examined it, the company can continue its examination to a new purchaser at a minimum cost, and the fact that a title is insured makes it more desirable and easily transferable.

Title companies have added greatly to the negotiability of real estate, owing to the speed with which titles can be examined, through the instrumentality of the extensive plants and large forces of the companies. The long delays incident on the examination of titles by lawyers are, to a great extent, things of the past, and at no distant day, it is believed that the companies will have approximated the ideal toward which they are aiming—making a transfer of real estate with the same rapidity that transfers of stocks and bonds are now effected on the Stock Exchange.

FIRE INSURANCE

R. O. HAUBOLD

The Successful Broker—The Standard Policy and Its Provisions—Legal Points to Be Considered—Need for Including Certain Clauses—Structural Changes—Forms of Insurance—Average Clause—Inclusion of Machinery

In order to be successful as a broker, the first step necessary is to realize that in becoming a broker and accepting an order to place a policy of insurance, you are assuming a confidential relationship to your client, and he looks to you to see that you are going to give him protection against possible loss by fire.

A fire insurance policy is a contract between your client and the company, the conditions of which have been prescribed by the Legislature of the State of New York, and it is as obligatory for the assured to live up to these conditions as it is for the company to pay the loss when it occurs.

In the vast majority of cases, the assured is unfamiliar with these conditions, and it is your duty to see that the contract is so worded that such contingencies as may arise in the business or occupation of the assured are provided for.

Standard Policy

In order that this might be so, a thorough study and understanding of the printed form of the New York Standard Policy is absolutely necessary.

Firstly, the interest of the assured in the property to be covered should be clearly and properly expressed, whether he be owner, lessee or mortgagee, or if a firm, if incorporated or not.

Does the property stand on leased ground or does the assured own it in fee simple?

Is the property encumbered by chattel mortgage or not?

The occupation of the premises and the uses they are put to should be thoroughly understood by the broker, and privileges for such occupation or occupations of a lesser hazard put in the policy.

Legal Points

At this point I wish to call your attention to the fact that the courts have ruled that, where the policy has once been voided by failure to comply with its conditions, it is *not* automatically brought to life again by a correction of the faults. For instance, a building once vacant for a longer period than allowed, would not be properly covered by the existing policy, even if the building became occupied at a later date, unless the necessary permission be granted in the first place.

The policy does not cover loss to "awnings, bullion, casts, curiosities, drawings, dies, implements, jewels, manuscripts, medals, pictures, scientific apparatus, sculpture," and it is necessary to enumerate these articles in issuing a household furniture policy so that the assured may collect on these articles which are usually part of his household effects.

In a manufacturing plant, dies, patterns, signs and awnings should be similarly treated.

In insuring apartment or tenement buildings, awnings, shades and stair and hall coverings, can, to a limited extent, be covered at the building rate, but care should be exercised that awnings are covered while *in or attached to* building, so that the period while same may be only stored in the cellars or basement will be provided for.

The use of electricity for light, heat, and power is now prohibited, except under certain restrictions, and the conditions of these clauses should be carefully observed.

Structural Changes

The employment of mechanics on the premises for a longer period than 15 days making extraordinary alterations or repairs, is a violation of the conditions of the policy, and in the event of this necessity arising, a privilege should be obtained from the company.

In the event of a loss occurring, the conditions as expressed in lines 67 to 80 of the Standard Policy should be carefully complied with, the clause relating to the care of property after fire and pending the adjustment of loss being most important.

The change of ownership of the insured property and also the change of hazard in occupation should receive immediate attention.

In the cancellation of policies, the rights of assured or mortgagee should be carefully guarded, and in this connection I desire to call your attention to the fact that the Standard Mortgagee Clause makes it incumbent upon the company to continue the insurance in force in favor of the mortgagee for 10 days after the *completion* of a cancellation as regards the assured.

Cost of Insurance

In soliciting insurance, the cost of same has, of course, an important bearing, and the argument is often used that the rate can be reduced 10% by the application of the 100% Co-insurance or Average Clause. This, to my mind, is a most dangerous practice, and does not redound to the benefit of the assured in many cases. It gives the companies a decided advantage, as is best proved by the fact that they can afford to reduce the rate of insurance by reason of the application of the clause.

An 80% clause on a $10,000 valuation requires an $8,000 policy, and a 100% clause a $10,000 policy; consequently, while you reduce the rate 10%, you increase the insurance 25%, and the net result is that your protection is actually costing you 12½% more than with the 80% clause. Of course, you have additional protection if you comply with the conditions of the contract, but at a considerable increase of cost and in only a few cases is it necessary to insure the full value of property because a salvage of at least 20% is the rule and not the exception in cases of loss in this city.

The hardship of a co-insurance clause of either kind can be lessened in cases where buildings are insured, by excluding the cost of foundations and excavations below the level of the ground, so that these items will not be taken into consideration in fixing the original value of the structure, thus limiting the scope of the clause.

It is also permissible to include under the building item (which carries almost invariably a lower rate than the contents) boilers, engines, and main shafting and machinery pertaining to the service of the building or the furnishing of power therein.

HOW TO REDUCE INSURANCE COST

W. R. CRANE

How Rates Are Fixed by the Companies—Minimum Rate and Specific Rate—How to Determine—Elements that Add to Cost—Importance of Schedule Computations—Credit for Fire Appliances—Rate Reduction a Specialty.

THERE are two general classes of insurance rates: known as minimum and specific. All dwellings containing not over two families, and all apartments and tenement houses with or without stores on the first floor, not over a specified height and area, and private stables are given uniform rates applying alike to all buildings of a class. These are known as "minimum" rates, and all the broker needs to know respecting them is that the risk in question is a one or two family dwelling, an apartment or tenement house, or store and apartment or tenement house, and see to it that the right rate for its class has been used. These rates are published in the handbook of the Exchange, which can be purchased for a small sum, or they can be secured from the company or agency offices. These classes just enumerated include nearly all the risks that are rated under these minimum or universal rates.

How to Find Specific Rate

All buildings and their contents not covered by these minimum rates are given specific rates. That is, apart-

ment and tenement houses over the specified size with or without stores, or of any size if with stores with a hazardous occupancy, and all mercantile and office buildings, manufacturing establishments, docks, piers, warehouses, etc., have separate or specific rates for each individual building. A rate is made for the building and for each occupant except in the case of dwellings and offices where one rate is made for such contents. If a broker wishes to know the rate on a building, say 900 Broadway, all that is necessary is to go to a rate cabinet. There is one located in all company and agency offices. Open the drawer labelled "Broadway" and find the card numbered "900." On it will be the rate for the building and each occupant therein. It may be interesting to know that there are about 50,000 such cards covering individual buildings. As the whole problem of rates, from the broker's point of view, is occasioned by this specific or individual rated class, we will give the minimum class no further consideration.

What Determines Rate

And now as to how these specific rates are made. Before a new rate is published, an inspector from the Exchange visits the property and makes a careful inspection of the entire building. From his report the rate is computed on the proper schedule blank. There are over 25 forms of schedule in use by the Exchange, each form being used for its respective class or classes. It might be well to explain that these schedules are our yardsticks for measuring various classes of properties. Our experience gives the fire cost of a general class, and this for the sake of illustration we will call the length

of our yardstick. This is divided into parts, each representing the different features which contribute to the fire loss of the class. This yardstick is then used to measure the individual buildings of the class and to proportion accurately the insurance premium to each.

In the case of a store and dwelling rated because of a hazardous occupant, the schedule is rather simple, containing possibly only two or three charges. The other schedules are more complex, and to understand fully the reason and effect of the various charges in the schedule on a large mercantile or manufacturing establishment requires some little experience. The schedule blank used to rate a mercantile building contains over 110 items. These items measure: (1) The features of building construction, such as walls, roofs, mansards, floors, ceiling and side wall finish, area, height, elevators, stairways, well holes, dumb waiters, vent shafts, skylights, cornice, lighting, heating, chimneys, frame extensions, stone piers, iron columns, fireproof floors, features of mill construction, etc.; (2) hazards of occupancy, which include the number of tenants and number of operatives; (3) fire appliances, such as automatic alarm, chemical engines, buckets, standpipes, watchman and clock, fire escapes; (4) exposure from surrounding buildings; (5) housekeeping features, such as stove-pipes, coal and gas stoves and gas jets and any unsafe heating or lighting appliances, packing material, broken plaster, benzine, lack of waste cans, untidy floors, unsafe heating apparatus, etc.

You will see from this that in determining the insurance rate to be charged, every effort is made to give consideration to the various features, good or bad, which affect the fire cost.

Value of Schedule Computation

Thus far we have considered the method of fixing these insurance rates, and the question naturally arises, what can the broker do to serve his client in respect to this matter of rates? As a matter of fact, nearly all the competition between brokers is over this question of rate, and efforts to secure the lowest figure. It should be explained that the Exchange, upon the request of an assured, will furnish him with a copy of the schedule computation of his rate. This can be turned over to the broker and, he having this schedule in his possession, the Exchange will furnish him with such information as he may request. This is an exact copy of the schedule and shows all the charges that comprise the rate. The first thing to engage the broker's attention is the charge, if any, for poor housekeeping, or faults of management. A short time ago I had occasion to average the rate on fifty buildings and found the charges under these housekeeping items amounted to about 12% of the gross rate. Some brokers had been asleep. The broker should learn the reason for the charges and just what improvements are necessary to remove them.

Credit for Fire Appliances

The next step should be to secure as large credit as possible for fire appliances. Buckets give the largest return for cost. If the insurance premium is large, it is frequently profitable to install automatic alarm, standpipe, watchman and clock, and perhaps sprinklers. Our office has just recommended improvements which will cost not over $500, and which will reduce the rate on

a large furniture factory from 2% ($20 per $1,000) to .26 ($2.60 per thousand).

If the broker is enterprising, he will suggest any changes in construction which will lower the rate, such as the correction of skylights, the protection of floor openings, the fireproofing of iron columns, cutting off of boiler room, separating sections of a plant, providing shutters on exposed windows. If he ranks among the more progressive, he carefully examines the building and all appliances and makes sure that no charge has been made in error and that credit has been given for all desirable features. The saving in rate secured by a careful scrutiny is frequently considerable. Not a great while ago we had occasion to examine a schedule for a broker and found a change in the process of handling the goods warranted the use of a different schedule form, and the rate was reduced without any action on the part of the assured from 1.55 to 1.07. Investigation of another rate showed that there had been a change in the occupancy of an exposed building and the rate was reduced from 2.31 to .67.

Rate Reduction a Specialty

The use of these highly detailed schedules has made it necessary for the large brokerage firms to employ men skilled in the technique and engineering features of this business. Several companies have found it desirable to engage men of this training to help the brokers whose offices are not so fortunately equipped. In the company I represent there is a department consisting of three inspectors and a clerk who spend nearly their entire time in assisting brokers in securing the lowest rate for their

clients. I would not, however, dismay the new broker or experienced broker who is comparatively unfamiliar with this feature of the business, but would suggest:

First—Always have your assured secure a copy of his schedule rate (provided, of course, there is a specific rate covering his property) and secure possession of this schedule.

Second—Make yourself familiar with the various charges and suggest such improvements as you can.

Third—Always suggest to your assured any improvements which come within the pale of reasonableness, whether you think he will make them or not. Always make them in writing. Unless you do this, you will probably awake some day to find that some competitor has interested your client in some improvement you thought unworthy of consideration, or perhaps casually mentioned in a conversation soon forgotten.

Fourth—If you can, verify all the charges and make sure you have been given all the credits; if you cannot do this yourself, refer the schedule to some one who can. Unless you have made sure that the rate is the lowest that can be secured and have suggested all feasible improvements, you have not done justice to your client and are always subject to the competition of some more progressive and skilful broker.

REAL ESTATE INVESTING

HENRY MORGENTHAU

Transient, Floating and Permanent Populations—Growth in Twenty-five Years—Stability of Financial District—Twenty-hour Centers—Harlem as an Example — Tenement Districts — What the Future Promises

REAL estate in any growing community, and particularly one with limited space and other exceptional advantages, is the surest and safest of all investments, because, as the population tributary to it becomes greater and denser, values steadily rise.

New York City is the greatest port of entry of the United States, is developing wonderful railroad terminals, and has one of the longest canals in the world terminating at her door. Her theatres, public institutions, art galleries, and many other features which attract visitors, constantly add to her success.

All these have multiplied so rapidly recently that even the most optimistic have been astonished. We have to-day such a large floating population that it would satisfy most cities to possess it as their permanent quota, and in addition have more than 500,000 persons poured into New York daily via railroads, subways, tunnels, ferries and bridges, which fill our offices and workshops.

Progress in Twenty-five Years

Let us look at what it was twenty-five years ago, and then compare it in detail with to-day. The Brooklyn

Bridge was opened in May, 1883. The highest buildings were the present Postoffice and the old Tribune Building. The largest and finest hotel was the Fifth Avenue. The opera was at the Academy of Music. The retail business centered about Stewart's, now Wanamaker's. The Astor and Stewart mansions at Thirty-fourth Street formed the residential centers. The elevated roads, after 11 o'clock at night, were running to Harlem on one hour headway. The number of elevated railroad tickets sold per day in New York then was 230,000; now it is 800,000. The population of Manhattan was 1,165,000, and of the Bronx 51,980. The population of Manhattan now is 2,500,000, of the Bronx 450,000, and of New York City 4,113,343.

The Rev. Walter Laidlaw, the statistician of the Research Department of the New York Federation of Churches, has calculated that in 1921 there will be 8,000,000 inhabitants within a radius of nineteen miles of the City Hall. In 1890, 44.7 per cent of population of the States of New York and New Jersey lived in this district; in 1895, 52 per cent.

The assessed value of Manhattan Island in 1883 was $1,054,000,000, and it now is $4,788,000,000. The assessed value of the First Ward was $64,000,000, and now it is $320,000,000. R. T. Wilson bought his residence at Forty-third Street and Fifth Avenue in 1880 for $185,000. Now it is worth more than $1,000,000. Lots in Broadway around Wall Street were worth about $100,000, and now are worth $450,000.

Lots on the south side of Twenty-third Street, between Fifth and Sixth Avenues, then worth from $60,000 to $75,000, are now worth $250,000 to $300,000. Lots in the seventies, between Madison and Fifth Ave-

nues, were worth $15,000, and now are worth $100,000 and upward. Lots on the West Side, in the seventies, eighties and nineties, were worth from $4,000 to $10,000, and are now worth from $20,000 to $30,000. Lots on the south side of 125th Street, Seventh and Eighth Avenues were worth $8,000, and are now worth $100,000. Most of the well-located property has quadrupled in value.

The Mutual, New York Life, Equitable, and Metropolitan Life Insurance Companies had about $215,000,000 assets, and now have $1,572,000,000, of which $345,000,000 are invested in mortgages in New York City.

The savings banks in New York had $250,000,000 assets, and now have $703,000,000, of which $305,000,000 are invested in mortgages.

Stability of Financial District

Now let us see what the shrewd investor could have foreseen—I mean one who did not hold his hand too close to his face, but looked into the future with faith in the country's growth and its lasting prosperity. If he were engaged in business below Fulton Street, the crowded conditions, and ever-increasing demands for space, owing to the multiplication of banks and trust companies and expansion of stock brokerage houses, and the establishment in New York of all the prominent railroad companies and industrial combinations, must have shown him the permanency of the financial district and its great prospective value.

The fact that the same amount of land would permit of the creation of three or four times the rentable floor space by erecting thereon an eighteen or twenty-

four story building, instead of the old six-story ones, tripled and quadrupled the value of the land, especially parcels of 10,000 square feet and over, which supplied the growing demand for a larger space on the same floor which could be managed much more economically.

Retailers were locating where they could be reached, not only by their immediate neighbors, but by portions of the 'L' road in Sixth Avenue, and by ferry passengers from Jersey, etc., and this is what made Sixth Avenue from Fourteenth to Twenty-third Streets the leading retail center. Large concerns advertising heavily made surrounding property valuable. The west side of the avenues was preferred on account of walking afternoons in shade, and articles in windows not fading. For the same reasons the south side of lateral streets is liked.

A strange exception to this rule was when the Siegel Cooper Company went on the east side of Sixth Avenue; there being no important department store in the west side between Fourteenth and Eighteenth Streets, nearly all trade was transferred to the east side. The very daring and the largeness of the enterprise appealed to the people.

A Twenty-hour Center

The junction at Thirty-third and Thirty-fourth Streets, Sixth Avenue and Broadway, used to be called the twenty-hour corner. It was evident to any one that there was a great natural center. The *Herald* saw it first, and was ridiculed by many. Here met the Thirty-fourth Street crosstown cars, Sixth Avenue and Broadway cars and "L" road. Now, every one sees it since the McAdoo tunnel terminates there, and the Pennsylvania terminals are in that section.

Every one who had traveled abroad could realize that we eventually had to have a Rue de la Paix or a Regent Street, and where could it go but to "Fifth Avenue," north of Twenty-sixth Street, the only street where carriages could be used unmolested by car tracks, and where promenaders were always to be found?

If Delmonico's had not moved and the Brunswick site had been improved early with a fine hotel, it would have started at Twenty-sixth Street. Now it will run up to Central Park. When Altman, Gorham and Tiffany erected the finest business palaces in the world, everybody saw it.

When the New York Central and Pennsylvania improvements were projected and the McAdoo tunnel terminal fixed, it was a logical conclusion to stamp the district between Thirty-second and Forty-sixth Streets, Madison Avenue and Broadway, as the permanent heart of New York, and the caterers to our amusement-mad public have secured all available sites for theatres, restaurants, etc., and have created the now famous 'White Way.'

When the activity of housing the people seeking homes of their own was at its height, from 1886 to 1896, it was easy to see that they had to fill in the space skirting Central Park, and many a purchaser doubled his money. The builders in 1888, when they erected more than three hundred new private houses, made unusually large profits by always buying a block, or two or three, north of existing improvements.

Harlem Development

When it came to a section like Harlem, 125th Street very early stood out as the coming main street of a

country town of 300,000 to 500,000 people, and it required no great foresight to conceive the march of the now famous Harlem with its local pride, having social clubs, churches, places of amusements, etc. The more fun that was poked at these little Harlem flats, the more popular they became. They received lots of free advertising in the newspapers and on the stage.

After Harlem was pretty densely populated, you had to turn to the Bronx, and again one could foresee that the woodworking establishments and breweries and other factories offering employment to thousands, would draw a larger population, and that lots selling at $1,000 apiece and acres at $3,000 to $4,000 had to increase largely in value. Here was a desirable neighborhood selling below its value. See the result. Lots in Third Avenue in the neighborhood of 149th Street, now selling at $50,000 and over, then sold at $5,000.

Fortunes in Tenement Districts

The incurable tendency of most nationalities to hover together and create colonies and centers of their own, forces values in such districts as they select to abnormal prices, such as $25,000 for Henry, Delancey and Mulberry Street lots. If you follow the rise of price of tenement house lots in the entire city, you will notice that as the number of unimproved lots are few, in any neighborhood that can be reached within thirty or forty minutes by transit, the lots work up to $12,000 and $15,000, the most recent example being that in 1904, when the subway was opened.

The Donnelly tract, from 134th to 137th Street, Amsterdam and Broadway, was sold two weeks before the cars ran at $6,000 a lot, and within three days resold at

an average of $9,500. Now most of the lots are worth $12,000 to $14,000. At the same time, lots from 140th to 146th Street, Fifth to Seventh Avenue, were selling at $5,000, and now they are worth $12,000. The rents that can be obtained justify a price of $15,000 per lot, but not more.

As to apartment houses of higher grade, always give the broad avenues, especially such as have views overlooking parks or rivers, the preference. Any apartment house that has exceptional light and outlook is bound to pay well. The tendency is entirely in that direction. There is one Central Park apartment house where forty-three families out of forty-six are living on their incomes.

Looking Into the Future

What see we for the future?

Fifty-seventh Street, the great retail street, the natural avenue for the distribution of Queensboro Bridge traffic.

The great hotel center in New York facing Central Park.

Fifth Avenue above Fifty-ninth Street turned into high-class apartment hotels and family hotels like those in Paris, where strangers spend their winter months.

The amusement center moved up to and around the Central Park Theatre, etc., and from that running up to the Seventy-second Street express station of the subway.

Hudson River Bridge landing people between Forty-ninth Street and Fifty-first Street, and another up around 167th Street, having the Palisades as one of the piers.

Sixth Avenue, between Twenty-third and Thirty-second Streets, changed into a good retail and amusement center. It is a natural link that has been neglected.

The water fronts on both the east and west sides improved, as permanent sites with uninterrupted light can be secured, prices being abnormally low.

One Hundred and Twenty-fifth Street duplicated by 145th Street, between Sixth and Eighth Avenues, which is also a great connecting link between Washington Heights and the Bronx. Small stores in adjacent avenues are forerunners of this trend of development.

Get close to permanent centers, such as financial, retail, amusement and local, like 125th Street, 149th Street and Third Avenue, and all great junctions. Prefer corners on account of light and rents. In retail sections give the south side and west side preference over the north and east sides.

Remember, that the land alone increases in value, and not bricks and mortar.

Watch developments and give the section where population is densest the most attention. Above all, give transit facilities great weight. We are all lazy and in a hurry. Remember, that the store floors of buildings in retail neighborhoods produce 70 per cent of rent, as against 30 per cent for the upper three or four floors.

Real estate cannot be handled like railroad securities. Frightened stockholders fix their prices, while if one or two houses are sacrificed, it is forgotten.

REAL ESTATE CORPORATIONS

ROBERT E. DOWLING

Titles Held by Corporations as Compared with Partnership Holdings—Lessons of the Panic—Real Estate versus Listed Stocks—Stability of Manhattan Values.

A LARGE part of the real estate development in New York City is now being done by real estate corporations. Within the past twenty years, the increase in the number and capital of these companies has been very great, as the advantages of corporate ownership and management of real property have become more fully understood. One of the main advantages of such companies which first occurred to me in operating in real estate, about twenty years ago, was the question of title. The advantages of holding title in a corporation, which would not be affected by death, illness, disability or absence of individuals, as in the case of a partnership, nor by the legal difficulties which any of those associated might get into in transactions not connected with this ownership, made it imperative to put titles in corporations, so that all interests should be protected. As transactions grew larger, the difficulty of financing by individuals or small groups of associates grew also and became a factor.

A number of real estate corporations were incorporated about ten years ago with large capital. These companies have since successfully carried through some of the largest

building and real estate operations in the city. I was one of the organizers of the first company, so far as I know, that used the word "realty" in its title, namely, New York Realty Company. Since that time, there have been thousands of companies organized throughout the country, generally known as realty companies. Many of these companies, operating outside of Manhattan Island, are of an entirely different class from those which confine their operations to New York property.

Lessons of the Panic

The panic through which we have recently passed, which was one of the most trying in the history of this country, I think, affected real estate values less than we thought possible. Of the hundreds of real estate companies in the City of New York, operating in all classes of property—from those operating in vacant lots on the northerly undeveloped part of the island to the larger companies engaged in the business of improving and operating some of the most valuable parcels of real estate in the lower part of the city—I can recall only one fair-sized corporation which failed, and that was in the nature of a private building company. No other business in New York, I believe, stood up under the trying conditions of 1907 and 1908 with better success than real estate and building companies. Yet for nearly a year before the panic the largest lenders on real estate mortgages were practically out of the market. And, moreover, during that year the builders of large apartment houses, lofts and mercantile buildings and office buildings were able to borrow money on mortgage from practically but one source, the Metropolitan Life In-

surance Company, which seemed to be the only life insurance company with funds for real estate loans. The other large companies put their funds mainly in railroad bonds in which they had already a large interest.

Real Estate versus Listed Stocks

Real estate corporations, thus far, have appealed for their capital to a small section of the public. The stock of these companies, in general, is owned by persons personally acquainted with the officers and directors. Except in one company, the stock of which is listed on the Stock Exchange, the stock ownership is not widely distributed. I believe that the general public will become more and more interested in investing in stocks of real estate companies, but I think it will be difficult to get much public support for the stocks of small companies. That portion of the public which invests in railroad stocks, industrial stocks, bank, insurance and trust company stocks, prefers a stock which is more readily sold than that of the average real estate company. They will be content with smaller dividend rates and profit if they can be sure of the greater marketability of their holdings when needed. One of the reasons given by most investors for preferring listed securities is their ready convertibility into cash. If the investors would carefully consider this question, they would find, I think, that stock is readily converted into cash when not offered in large quantities, but that when any great percentage of the capital stock of any listed company is offered within a short time its price falls very rapidly. Real estate on Manhattan Island can be sold for cash, as well as stock on the Stock Exchange, if the owners

of real estate are willing to sell at the relative percentage of loss that they would take in selling listed stock. Many a purchaser of 1,000 shares of stock at par in good times is glad to get $60 per share in a period when money is in great demand. It would be very difficult to find a buyer of any piece of New York City property who had bought at $100,000 cash in good times, who would accept a price of $60,000 for it even when money is scarce.

Stability of Manhattan Values

No property in the world is held in stronger hands than the real estate on Manhattan Island. For the investor, there is about as small a probability of loss as there can be in any investment. There has been a steady advance of real estate on Manhattan Island for the past twenty-three years. I have seen all sorts of poor sections develop into valuable ones. Few districts fail to show a value greater now than it was twenty years ago. Holders of real estate are most tenacious. Where there are a thousand people who will sacrifice stock exchange securities at panic prices, you might find one who will sacrifice real estate in any section at any time.

That is one of the disadvantages thus far of real estate companies in the introduction of the stock feature. While it does not affect the value of the holdings of the company, it does affect the holdings of the individual stockholders. If a man owns a house in a certain block, worth $40,000, and some one else in the same block sells the same kind of a house for $35,000, it seldom affects the other holders. But if a man holding stock

in a railroad company for which he has paid par learns that one-hundreth part of its capital is sold at 75, he becomes infected with the idea that his holdings may not be worth more than 75. He does not look at the assets alone, but gets the Stock Exchange views of marketability.

Advantages of Realty Companies' Shares

An investor who believes in real estate holdings in New York, and who wishes to share the benefits of the growth in values, has, on the other hand, a greater opportunity to do so by purchasing stock in a well-known and strongly capitalized real estate company than he would have by individual purchases of real estate. He has the benefit of the judgment of people especially qualified to know values and foresee advances in certain sections. He also has the advantage of being backed by a large number of stockholders, who can always be called upon to furnish additional capital, if necessary, and, in general, has all the benefits of the cooperation of many such people.

Real estate in New York is not a gold mine, nor can any one expect to get the return on his investment that he might in a successful mine. Those who are looking for investments which will give them back 20, 40 or 60 per cent per annum on their money would better not invest in any real estate company, no matter how bright the prospects are, because operations of this sort, while possible, are not likely to be frequent. The future, I believe, will bring forth very much larger corporations than we have had up to this time. They will be investing more than speculative companies. For it is well established now that no few men in any large

company can well compete with individual operators in buying and selling ordinary pieces of property. The principal reason is that the time required to examine each piece and decide upon the chances of a quick re-sale at a good profit prevents the few officers who would be able to have that special knowledge from inspecting enough pieces to keep up the average on the capital as compared with the smaller operator.

CONTRACTS FOR THE SALE OF REAL ESTATE

HENRY F. MILLER

Contract and Deed—Formality Desirable—Importance of Accurate Description—The Seller's Deed as a Guide—Tenement House Requirements—Terms of Payment—Time as Essence—Surveys

THE most important paper in a transaction relating to the sale of real estate, is the contract specifying the agreement of the parties, and setting forth the terms of the sale. While, of course, the deed which is delivered, consummates the sale, nevertheless, the rights of the parties are practically fixed and determined by the contract which they have previously entered into, and for that reason, the deed, although it is the formal and final instrument, which transfers the title, really follows and is controlled by the contract of sale.

Sometimes, where there are no complications, and no special clauses to be drawn, the drawing of a contract is a very simple matter, and, under such circumstances, real estate agents and brokers who have gained familiarity with the requirements of such a contract, are able to draw them successfully. Loosely drawn contracts, however, often lead to litigation or loss, and in view of the importance of accurately defining all the essential particulars, it is prudent that the preparation of such papers should be left to lawyers.

Contracts for the Sale of Real Estate

Contracts for the sale of real estate are required, by statute, to be in writing, and to be signed by the vendor, or the lawfully authorized agent of the vendor; otherwise they are void, even though a part payment be made on account. No special form of contract is prescribed by law, but it is essential that the writing must embody the agreement of the parties.

The contract may consist of several letters, or writings. No seal is necessary. It is not necessary that the contract should be acknowledged, and, from the standpoint of the vendor, it is better that it should not be acknowledged, since, without an acknowledgment, or proof, it cannot be recorded. A recorded contract, when it is not fulfilled, is liable to embarrass the vendor.

Formal Contract Desirable

It is desirable, in drawing such contracts, to adopt the usual printed forms, for, while, as already stated, the law does not prescribe any particular form, it is best, in entering upon any transaction of this character, to avoid the unnecessary questions and difficulties, which would be apt to arise if the contract were informal, or consisted of various papers.

The rules applicable to contracts in general apply, of course, to contracts for the sale of real estate. The parties must be of full age and under no disability, and if the vendor is represented by an attorney in fact, the power of attorney must be sufficiently full to confer the power to execute the contract, and there should be some satisfactory assurance that the absent principal is alive, since a power of attorney, not coupled with an interest, is revoked by the principal's death.

The purchaser is usually required to make a payment on account of the purchase price. He should be satisfied that the person, with whom he is dealing, is the owner of the property, or duly authorized by the owner to sell it, and of sufficient responsibility to answer for the return of the deposit, in case the contract be not performed on the seller's part.

Importance of Accurate Description

The property sold should be accurately and precisely described. The mere mention of the street number may lead to difficulty, as there is here no representation of the dimensions or area of the property, and the purchaser might find himself compelled to accept a piece of land smaller than he had supposed. If the premises are fully described in the contract, and a material deficiency is afterwards disclosed, the purchaser is entitled to be relieved of his purchase. Generally speaking, a deficiency would be material, when of such a character that, had it been known, it would have prevented the execution of the contract. The words "more or less" give a flexibility to the description, when the contract deals with country property, but do not have any great effect in relation to city property. Where the premises are described by metes and bounds, it is sometimes advantageous and helpful to mention the street number. If there be a discrepancy between the street number and the description by metes and bounds, the latter, generally speaking, would control.

Personal property affixed to the land, which is intended to be included in the sale, should be specified, as for example, gas fixtures; if not specified in the contract, the

purchaser would not, as a matter of law, be entitled to receive such fixtures.

Ordinarily speaking, the description to be inserted in the contract should be taken from the deed, which conveyed the property to the seller. If the seller has had his title insured, the description contained in the title policy, would be his safest guide. Any matters, which, if omitted, would give the purchaser ground for objecting to the title, should be specified in the contract. Thus, if there are any covenants restricting the use of the property, or, generally speaking, any agreement of any kind which affects the property, as for example, party wall agreements, reference should be made thereto. All incumbrances should be mentioned, including leases and mortgages. If there be any easements over the land, these should also be specified. From the standpoint of the purchaser, if a covenant of restriction is referred to as being set forth in a recorded paper, referred to by its liber and page, it would be advisable to have a copy of the covenant added to the contract, or else sufficient time should be afforded to the purchaser, or his attorney, to examine the recorded paper before the contract is executed. Notice of any writing is notice of its contents, and it is dangerous to accept a contract made subject to a recorded paper, where reliance is had merely upon oral explanation of the contents of such paper.

Tenement House Requirements

It is usual in contracts relating to tenement houses, to insert a clause relating to compliance with tenement house law requirements, and the fairest clause is one which calls upon the seller to comply with all department

notices issued up to the time of the execution of the contract, and calls upon the purchaser to sustain the burden of complying with any thereafter issued. If the seller agrees to comply, at the time of closing with all notices or requirements of a municipal department, he puts himself in the power of the purchaser, who may procure action by a department requiring work to be done, after the signing of the contract, which may impose considerable hardship upon the seller.

It is, of course, unnecessary to specify in the contract any incumbrances which it is the intention of the seller to dispose of prior to the time of closing, but if it is the intention of the seller to dispose of such incumbrances, as for example, taxes, judgments or mortgages, at the time of closing title, it is well to make a reference to such incumbrances in the contract, and to state that they are to be disposed of at the time of closing title, out of the consideration money to be then paid. This makes the satisfaction of the encumbrance a simultaneous transaction with the payment of the consideration, and may save the seller from being in default in his performance of the contract.

Terms of Payment

The terms of payment of the consideration should be clearly set forth in the contract. If there be a mortgage outstanding, subject to which the property is to be sold, the amount of this mortgage forms part of the consideration. If the mortgage had previously been executed by the seller, so that the seller, at the time of closing the contract is personally liable, he may desire to relieve himself, to some extent, of this liability, and can do so

by inserting a clause in the contract, that the purchaser, taking subject to such mortgage, will assume, and agree to pay it. If the seller is not liable personally on the bond and mortgage, he may contract to sell merely subject thereto, without imposing on the purchaser the obligation to pay the same. If a portion of the consideration is to be paid by the execution, on the part of the purchaser of a bond and mortgage, the provisions to be inserted in the bond and mortgage should be carefully stated, and it would also be proper to specify that the purchaser should pay the mortgage tax to be imposed thereon, and the fees for drawing the papers, and recording the mortgage. If it is desired that the purchaser should personally execute such bond and mortgage, in contrast with some one to whom the contract may be assigned, and who may not be as financially competent, a proper clause should be inserted in the contract to safeguard it. The balance of the consideration is usually paid in cash at the time and place specified for the delivery of the deed. Some purchasers, in order to avoid the inconvenience incident to making a legal tender in cash, specify that the final, or balance payment, may be made in cash, or by a certified check. It would be proper precaution for the seller, in such a case, to specify that the check should be drawn upon a solvent bank.

Delivery of Deed

The contract should also specify the time and place for the delivery of the deed, and the character of the deed to be executed. The printed form, sold by law stationers, usually calls for a warranty deed, with the usual full covenants. A warranty deed practically makes

the grantor the insurer of the title, up to the amount of the consideration, which he has actually received, and in these days, when title insurance usually accompanies each purchase, an opportunity is sometimes afforded to the seller to suggest that the purchaser should be willing to accept a deed without covenant of warranty.

Time as Essence

The time when the contract is to be closed is a matter of importance. In actions at law, time is usually considered to be of the essence of a contract, but in actions in equity, a contrary rule prevails. Where it is the desire of the parties, that time should be of the essence of the contract, it is preferable to specify this in the contract.

The contract of sale usually provides for the apportionment and adjustment of rents, insurance and interest at the time of the delivery of the deed.

A few general observations may be added in closing. The seller should specify in the contract anything, which, if omitted, would give the purchaser a right to reject the title. The seller should see that the person called upon to assume liability, is a person of responsibility, as for example, where the purchaser is to assume a mortgage, which had been executed by the seller, or to assume the liability of the seller under any outstanding agreement.

Surveys

Of late years, the matter of surveys has become very serious. It now rarely happens that a survey discloses a piece of property as standing precisely on the lines of record title. It is a proper precaution for the seller

to have a survey made of his property, and to sell it subject to the conditions which are thereon shown. If the survey be thus referred to, the purchaser will not be entitled to object to the title for anything disclosed thereon.

Liability

It sometimes happens that a seller, acting with the utmost good faith, is unable to comply with his contract, and under such circumstances, he becomes liable to the purchaser for the return of the deposit, and for the reasonable expenses of the examination of the title. The amount of these reasonable expenses is an uncertain quantity, and it is prudent for the seller to specify, in the contract, the amount he should be called upon to pay, in addition to the return of the deposit money, in case the title be rejected for a valid reason.

Possession and Improvement

If a purchaser, under a contract, enter into the possession of the property, prior to the time of the delivery of the deed, he is not a tenant. He cannot be sued for rent, nor dispossessed by summary proceedings. Except under special circumstances, it is best for the seller not to deliver possession until the time the deed is delivered. On the other hand, if the buyer enters into possession, he cannot dispute the seller's title, and his retention of possession operates as a waiver of objections or defects.

If the buyer make improvements on the property before he receives his deed, he cannot, in the absence of an agreement, recover for the value of the improvements against the seller who has acted in good faith, if the title fail.

Generally speaking, the acceptance of a deed is presumptive evidence of the execution of the contract, and the rights and remedies of the parties are thereafter determined by the deed, and the original contract is no longer of effect. But the form and contents of the deed, as already shown, are governed by the provisions of the contract of sale, and the deed, while the consummation of the transaction, is, in reality, merely the performance and result of the contract.

NOTES AND COMMENTS ON THE LAW OF LANDLORD AND TENANT

HENRY F. MILLER

Definition of Tenancy — Servants — The Janitor's Rights—Assignment of Leases—Who Owns Improvements—Liability for Accident—Eviction—Condemnation Clauses

THE relation of landlord and tenant may arise between parties by a written agreement or by an oral agreement, but a lease for more than one year is required by statute to be in writing, subscribed by the lessor or landlord.

A tenancy may be either for years, from year to year, monthly, or at will or sufferance. An estate for years is created by writing and arises in all cases where formal leases are entered into. Estates from year to year may arise by operation of law, as where a tenant for years holds over at the end of a year, or where a tenant enters into the possession of the property for a term under a parol lease which is void under the Statute of Frauds. An estate at will is one which is terminable by either party, and an estate at sufferance arises where a tenant holds over and the holding over has not existed long enough to make a continuance under the preceding lease.

Tenant or Servant

Where a tenant enters into the possession or occupation of property in connection with his employment, the

occupation is usually that of a servant, and not tenant. The word "servant" is here used, not in the ordinary acceptance of the term, as referring to a menial, but in connection with its meaning in law as a person who is employed. Cases of employment are usually discussed in legal text-books under the head of "Master and Servant." Illustrations of occupation of premises in connection with service are found in the employment of coachmen, gardeners and farm laborers, and the matter sometimes assumes importance in the city from the employment of janitors. Where a janitor is employed and paid partly in money and partly in the privilege afforded to him of occupying a portion of the premises, his occupation is that of a servant, not of a tenant. Under such circumstances, the employer has the right, upon discharging the janitor, to remove his furniture and goods from the premises and to employ the necessary force to accomplish this purpose. Delay in the removal of the janitor might turn his occupation into a tenancy by sufferance. A janitor, however, may be a tenant. This would arise in cases where he rented an apartment and paid the rent partly in cash and partly by services to be rendered. Under such circumstances the janitor could not be removed without resort to the usual dispossess proceedings.

Assignments and Sub-leases

When a tenant or lessee disposes of his entire interest under a lease, it is called an assignment. When a tenant leases the whole or any part of the premises for a shorter period than the term of his own lease, it is called a sub-lease. Although a tenant, by the lease under which

he holds, might be prohibited from making an assignment, he would, nevertheless, have the right to make a sub-lease. The distinction between an assignment and a sub-lease is that in an assignment we find a transfer of the tenant's whole interest, and that in a sub-lease the tenant has reserved for himself a reversion. When a lessee assigns his entire interest, his assignee, as long as he is in possession of the property, is liable under the lease. He is said to be in privity of estate with the landlord. The original lessee also remains liable because of the agreements contained on his part in the original lease. The original lessee is said to be liable because of privity of contract. Thus, in cases of assignment two persons are liable to the landlord—the original lessee by privity of contract, and the assignee by privity of estate.

Improvements by Tenant

Where a tenant adds fixtures to the premises which are removable, they must be removed by him at or before the expiration of his tenancy; otherwise the tenant is assumed to have waived his right to remove them. If the tenant has made improvements which he is entitled to remove, and thereafter, upon the expiration of his tenancy, he enters into a new lease with the landlord without reserving the right to remove the improvements, he is assumed to have waived his right and cannot thereafter enforce it.

Repairs

As to repairs, the rule is that, in the absence of an express agreement, the landlord is not bound to make

repairs. This, however, relates to premises in the occupation of the tenant. In an apartment house it would relate to the tenant's apartment, but the landlord would, nevertheless, be required to repair those portions of the house not exclusively in the occupation of a particular tenant, but used in common by all the tenants as, for example, the entrance, yards, hallways, etc. Where a landlord is obliged to keep a portion of the premises under repair, his obligation is to keep the portion in repair for the use for which it was intended. Thus, the landlord is under no obligation to keep a fire escape in such repair that it may be used as a balcony or as a platform for drying clothes.

The matter of repairs is usually provided for by express agreement, and, under such circumstances, the agreement itself controls. Where a landlord has obligated himself to make certain repairs, and has failed to do so, the tenant may cause the repairs to be made and recover the expense as damages for breach of the landlord's contract, or, in some cases, he may leave the premises and recover for the damages sustained. Where a landlord agrees to repair a ceiling and fails to do so, he is not liable to the tenant for damages for personal injuries sustained by the tenant from the fall of the ceiling. The tenant has his option either to repair the ceiling and deduct the cost from the rent, or to move away from the premises.

In the absence of fraud, there is no warranty implied on the part of the landlord that the building is safe and convenient or suited for the purpose for which the tenant takes it. If the tenant claims he has been defrauded, he must, as soon as he discovers the fraud, move away, or else he will be liable for the rent.

Eviction

The tenant is not liable for the rent if he has been evicted. Eviction may be total or partial, that is to say, the tenant may be interfered with in his possession of the entire property, or only as to a portion of the property. Eviction may also be either actual or constructive. Actual eviction explains itself. Constructive eviction arises from a condition where the tenant's enjoyment of the property is so interfered with that he is deprived of the beneficial use of the property. Thus, where a dentist hired the second floor of a house and had frequent callers in the course of his business, and the bells were muffled, and carpets littered with rubbish, and loud singing indulged in on the stairway, so that, as a result, the business of the tenant was injured, it was held to be an eviction. But, to constitute a constructive eviction, the acts complained of must be imputable to the landlord. In all cases of constructive eviction the tenant is liable for rent which had previously become due and, in order to plead eviction as a defense, the tenant must surrender the premises.

Clauses in Leases

Forms of leases are procurable at the various law stationers. In these leases blanks are left for the insertion of particular clauses. A few of the clauses found in leases may be briefly discussed:

There is usually a covenant on the part of the tenant that he will not assign his lease, nor make any alterations in the property without first obtaining the landlord's written consent. The tenant is usually required to observe all requirements of law and ordinance and all reg-

ulations of the municipal departments. It is a prudent thing for the landlord to insert a clause giving him permission to visit and inspect the premises at reasonable times. If such permission be not provided for, the landlord has no right to enter upon the property without becoming a trespasser.

It is proper to insert a clause specifying the use to which the premises shall be put, and prohibiting the use of the property for purposes not desired.

Condemnation Clauses

The frequency of proceedings to take property for a public purpose renders it prudent that the landlord should protect himself against any claim for damages on the part of the tenant, in case the leased premises are taken. The clause providing for this is usually called a "condemnation clause." Such clause provides that, in case the premises are taken by condemnation proceedings, the lease shall cease upon the day that the legal title to the property shall vest in the party instituting such proceedings. Such a clause protects the landlord from any claim on the part of the tenant for loss or damage arising from the termination of the lease.

While the matter of amount of rent to be paid is usually the subject of careful negotiation between the parties, and is finally fixed upon as a reasonable amount under all the circumstances, nevertheless, if condemnation proceedings are subsequently brought, we are very apt to find that the tenant will claim that, by being deprived of the premises, he has lost a bargain. In other words, the tenant, in order to receive damages, is practically compelled to take the position that he is paying

less rent than the premises are worth. This contention on the part of a tenant usually raises an acrimonious dispute between himself and the landlord, and it is only fair that the landlord should protect himself, by a proper clause in the lease, from this danger.

The tenant is usually called upon to covenant to quit and surrender the premises in good condition. He is liable to the landlord for any injury done to the freehold, for waste, as it is called, and for breach of his covenants.

ESTATES AND INTERESTS ARISING FROM MARRIAGE

CHARLES L. BURR

Common Law Interests—Statutory Modifications—Curtesy—Effect of Children—Dower—Defeat of Dower Rights—Assignment—Contractual Modifications—Mortgages

RIGHTS and interests arising from marriage may be classified as: (1) The husband's rights during marriage; (2) the husband's rights after the death of his wife—or curtesy; (3) the wife's rights during marriage; (4) the wife's rights after the death of her husband—or dower, and (5) homestead rights. These interests are, of course, predicated upon lawful marriage. A marriage which is voidable *only* gives rise to the same rights and interests, if not annulled during the life of the husband.

Marriage is an ordinary civil contract, made by a man and a woman in due form of law. It differs from other legal contracts only in that when once entered into it may not be rescinded. The legality of the marriage contract, at least for the purpose of determining the rights and interests arising out of it, is to be ascertained, as with other contracts, by the law of the place where the contract was made.

At common law the husband has, by right of marriage, an estate carved out of his wife's real property,

which entitles him to the rents and profits thereof, free from the claims of his wife. He can sell and convey this estate without her consent—her signature to such a conveyance not being required—and it may be seized and sold under execution for the payment of his debts.

This estate, known as the "husband's right during coverture," continues until his, or his wife's death—or, until they are divorced—or, there is a child of the marriage born alive—whereupon this estate falls, and in its place arises an estate of curtesy. If the wife survive her husband, then she becomes repossessed, in full, of her real property and all estate therein, after his death, and, as he could convey only *his* estate, and his creditors can attack and sequester only the same estate, the wife's real property is not thereafter affected by any of his prior conveyances, or by the acts of any of his creditors. The wife's chattels real—that is, chattels which concern and savor of real property—become the property of the husband for certain purposes. During his life they are liable to be taken on execution for his debts; he may sell and convey them without the wife's consent, and upon her death they become his absolutely. He cannot, however, dispose of her chattels real by will, but if the wife survive, and her husband has not disposed of her chattels real during his life, she again comes into possession and ownership of her property.

As a forerunner of coming statutory modifications of the husband's rights during marriage, and as indicative of a changing public policy, there was introduced by the Courts of Equity the doctrine of the wife's equity to a settlement, by which, when the husband came into equity, for the purpose of relief with respect to his wife's real property, he was compelled to make a provision out of

it for the support of his wife and children, this being merely an application of the equitable maxim "that he who seeks equity must first do equity."

Property thus settled upon the wife receives generally the designation "her sole and separate estate," but may conveniently be termed, "her equitable separate estate" to distinguish it from her "statutory separate estate" hereafter referred to.

It was at one time regarded as necessary that the legal title to the property, so freed from the husband's control, should be vested in a trustee, but it later became settled that "if property be given or devised to a married woman *for her separate and exclusive use,* even without the intervention of trustees, her interest will be protected from the claims of her husband and of his creditors; the husband, in such case, though he obtains a legal estate in the property for their joint lives, being regarded as a trustee for the wife. The words used most frequently to create this estate are "sole and separate use," but any language is sufficient, provided it shows a clear intention to exclude all control of the husband.

A most striking peculiarity may be noticed in the instrument vesting the property in the wife with respect to restricting her powers over it, in that it is lawful to absolutely prohibit its conveyance by her. This exception to the general rule forbidding absolute restraint on alienation being allowed in order that she may be protected from the effect of her husband's persuasion.

In England, and in some of the States of this country, in the absence of such a restraint on conveyance, the wife is free to convey or charge such estate as she may choose, while in other States it is held she has but the

power of disposition given expressly by the instrument creating the estate.

The rights of the husband in property which is held by the wife for her separate use are suspended only during coverture, and, on the wife's death, he has the same right in her separate estate as in her property not so limited, unless such rights are excluded by the terms of the instrument vesting the property in her.

The husband's common law interest in his wife's real property and chattels real has, in recent years, either been abrogated or greatly diminished by what are known as the "married women's property acts." Property thus held by the wife, freed either wholly or in part from any claim or control by her husband, is known as the wife's "statutory separate estate," and is, in reality, the child of the parent equitable rule, known as the wife's "equitable separate estate." While courts have no legislative powers, they not infrequently prepare the road upon which proper legislation must travel.

Statutory Changes

At the present time, in most, if not all of the States of the United States, real property acquired by a woman before marriage is her "statutory separate estate" and is free, in whole, or in part, from the husband's control in varying degrees as the acts of the various legislatures differ. In most of the States real property acquired by the wife after marriage, is likewise withheld by statute from the husband's control. This statutory separate estate of the wife is not, as of old, liable for the husband's debts. The husband still has, however, that right of possession which is incidental to his right to live with

his wife, since these statutes do not affect the family relation.

The power of the wife to dispose of such separate estate is usually determined by the provisions of the statute by which it is created. Her statutory real property she cannot, perhaps in a majority of the States, dispose of by conveyance without the joinder, or at least the written consent, of her husband, though in some States, notably New York, the statute clearly gives her the power so to do.

Curtesy

Upon the death of the wife the surviving husband is entitled, for the period of his life, to an estate by curtesy in the real property of which the wife was seized during marriage, provided there was issue of the marriage born alive, capable of inheriting.

Curtesy is frequently defined as "an estate for life, accruing to the husband on the death of his wife in the real property of which she was seized in possession; in fee simple; or, fee entail, during marriage, provided he has had by her lawful issue capable of inheriting the estate, born alive, prior to her death."

Curtesy to the husband resembles dower in the wife as regards the things in which it exists and the *quantum,* and nature of the estate, or interest, in the consort necessary to support it.

It differs from dower primarily in that it is in favor of the husband, and not the wife; that it is not restricted to one-third of the wife's real property; that it is contingent on the birth of issue; that, after birth of issue, it exists as an estate, and that it is perfected by the wife's death without assignment.

At common law, in the case of dower, it is necessary the husband should be actually seized and possessed of the real property and so, in the case of curtesy, it is necessary that the wife should be seized and possessed of her real property—constructive ownership and possession not being sufficient.

In the absence of a statutory provision to the contrary—one not found in the statutory law of New York—there must be issue of the marriage born alive, and such issue must be capable of inheriting property in which the curtesy is claimed, in order that the estate by curtesy may become perfected in the husband. The length of the child's life is immaterial; it matters not whether it be alive at the time of the mother's death, provided, it was born alive, and the right to curtesy is not affected by its death before that of its mother. Nor need the birth of issue and the ownership of the wife be contemporaneous, consequently, if a child is born at any time during marriage, the husband is entitled to curtesy in property which the wife may previously have acquired, and which she has conveyed, or, of which she has otherwise been divested, or, in property which she acquires after the child's death. In some States the requirement of birth of issue has been removed by statute.

Curtesy, like dower, exists in lands and tenements, and, accordingly, it exists in incorporeal real things, such as rents.

Unless authorized by statute, or the power is expressly given her for the purpose, the wife cannot, by her sole conveyance during marriage, affect the husband's right to curtesy. But in some States the statute gives the husband curtesy only in property of which the wife died seized, and there a conveyance by the wife

alone, during marriage, if by statute she has power to make a sole conveyance, will defeat curtesy.

Under some statutes she may by devise of a separate estate, defeat curtesy, but generally the fact that she is authorized to dispose of the property will not enable her to thereby defeat curtesy, and, apart from these statutes she cannot devise her lands even with her husband's consent, free from curtesy since this would, in effect, be devise of his property.

The curtesy is usually defeated by a conveyance by the wife before, but not after marriage, unless she is, by the conveyance to her, given power to dispose of the property; by a contract of the husband releasing curtesy; by his joinder in the conveyance with her; or, by a divorce.

In some States curtesy has been abolished by statute and in others it has been modified.

But the husband may exclude himself from curtesy by a contract made before marriage, or by one made after marriage, providing the law of that jurisdiction allows contracts between husband and wife, such as are permissible by the laws of the State of New York.

By joining with his wife in a conveyance, or mortgage, of the land, the husband thereby releases his curtesy, at least as against that grantee, and his joinder in her will may, by statute, have the same effect.

A divorce annulling the marriage—that is, a decree declaring the marriage contract to have been voidable—will deprive the husband of his estate of curtesy, but a mere dissolution of the bonds of matrimony—that is, what we commonly, but often inaccurately, call "a divorce"—does not affect the husband's rights. Many States—including New York—have enacted laws which

deprive the husband of his estate by curtesy if the divorce be granted for the fault of the husband.

Upon the birth of a child capable of inheriting, the husband is said to be a tenant "by the curtesy initiate," and he becomes tenant "by the curtesy consummate" after the death of his wife. A tenant by "the curtesy initiate" has, at common law, a freehold estate in the land which he has full power to convey, and it is bound by a judgment against him and liable to sale on execution. In New York State, as in many others, however, the husband has, until his wife's death, no estate that he can convey, or which is subject to sale on execution. In this State, as in all others, the estate of curtesy, when consummated by the death of the wife, may be sold and conveyed the same as any other interest in, or ownership of, real property.

Upon the death of the wife, the husband is entitled to immediate possession, without the necessity of any assignment, such as is always necessary in the case of dower, owing to the fact that the latter estate exists in one-third only of the decedent's property. He takes it by operation of law as by descent, rather than by purchase, and for this reason he cannot, by a written disclaimer or otherwise, refuse to take it, and cause it to remain in others.

The husband thereafter holds the property with the same rights and liabilities as any life tenant. He may convey, or encumber it, and it may be subjected to execution for his debts. It must be borne in mind that it is only his life estate which can be conveyed and sold—not the fee of the property, for that descends to the heirs of the deceased mother.

In a number of those States where curtesy has been

expressly abolished by statute, occasionally the husband is given, in place of curtesy, an estate similar to the widow's dower. The statutes giving married women full control of their property are generally held not to abolish curtesy, though they in effect restrict the estate to such property as the wife has at her death.

It seems that by reason of the statutes of the State of New York, the separate property of the wife may be conveyed without her husband's consent; that it is not essential he should join in the deed of conveyance, and that his estate, by the curtesy, attaches only to such property as she was seized of at the date of her death. Many conveyances, however, out of an abundance of precaution, still insist the husband join his wife in all conveyances of her separate estate.

Dower

Dower, at common law, is the estate to which a wife is entitled, upon the death of her husband, for the period of her natural life, in one-third of the lands and tenements of which her husband was seized in fee, at any time during marriage, and which her issue, if any, might inherit.

It will be seen that the common law, favoring man always—as the Christian yields to his Creator, or the subject favors his king—grants to him a life estate in the entire real property of his wife, while the latter, by dower, obtains a like estate in but one-third of the real estate of her spouse.

Dower is also allowed in lands in which the husband has an equitable interest corresponding to a legal estate of inheritance—such as lands claimed under a contract

of purchase; mortgaged lands, and also personalty regarded, in equity, as land—chattels real.

This question of dower is ever present, and one of very practical application; it arises upon every conveyance and a purchaser is bound to inquire whether his grantor is married and satisfy himself of the proper marriage status of the female joining in the conveyance, if any.

The press of a late day has commented quite extensively upon the acts of a certain bank president residing in an adjoining borough and currently report conveyances made by him as "a widower." It was developed he has, at least, one wife living, who, of course, cannot be deprived of her dower interest by his conveyances as "a widower," and, as a consequence, his grantees must look to his personal warranty in the instrument of conveyance, or to such other remedy, at law or in equity, as may arise from each particular transaction, for a recovery of the damage they sustain. It may be remarked in passing that such incidents are not overlooked by title insurance companies, and the publicity which they encourage is not wholly unselfish. Title insurance, especially in this regard, is but the added warranty of a third person covenanting that the grantor's warranties are true, but learned and expert counsel for these institutions have so encompassed their contracts with "buts," "ifs" and "provisos" that even the traditional "Philadelphia lawyer" finds difficulty in ascertaining the true intent and worth of such insurance. However, the inexperienced can hardly afford to dispense with it.

Dower exists in land held by the husband in tenancy in common, or coparcenary, but *not* in that held in joint tenancy, except as a result of statutory changes, for, as

you have doubtless heretofore learned, the surviving joint tenants take the interest of a deceased joint tenant.

Dower may be barred, or defeated, by one of eight methods:

(1) A conveyance by the husband before marriage, if not made in fraud of his wife's rights, though a conveyance by him after marriage will not have that effect.

(2) A destruction of the husband's estate, either by a paramount title, by entry for breach of condition, or by sale under a mortgage or other lien, superior to the dower right.

(3) A written release by the wife in favor of one purchasing, or owning the land, and this is usually contained in the husband's conveyance, or mortgage, and explains why the wife must join her husband in a conveyance, or mortgage, of his real property.

(4) A testamentary provision by the husband, in favor of the wife, in lieu of her dower rights, provided she elect to accept thereof.

(5) An antenuptial contract by the wife releasing dower, in consideration of other provisions made for her.

(6) A divorce, or in some States divorce for the wife's fault only.

(7) In some States, but not in New York, the elopement and adultery of the wife.

(8) Conduct on the wife's part constituting, in law, an estoppel as against her rights to claim dower.

Until the husband's death the wife has merely a contingent right in her husband's lands, known as "dower initiative," which she may release, but not convey. After his death the dower right ceases to be contingent, and is known as "dower consummate," which may be conveyed by her, in equity, and in some States at law. She

has, however, no dower estate until dower has been assigned to her.

Assignment of Dower

The ascertainment and setting off to the widow of the part of the husband's property in which the estate of dower shall exist, is known as the "assignment of dower." The assignment must be of one-third of the productive value of the property at the time of the assignment, except that improvements by one to whom the husband has conveyed property during marriage without his wife's consent, are not included in the valuation. If dower is not assigned to the widow, she may institute proceedings to compel assignment, and may therein usually recover damages for delay in assignment, or may, in an equitable proceeding, have an account of rents and profits.

Dower has been abolished by statute in some States, but not in New York; the widow being sometimes given an absolute share in the husband's lands in lieu of dower, while, in still other States, she has the right to elect between dower and a statutory share.

In order that the widow be entitled to dower, the husband's ownership need not have continued for any particular time, it being sufficient that it was but momentary, the title passing out of him immediately after its acquisition. It is generally in connection with the question of the duration of the seisin, or title, that consideration is given to a class of cases in which the title to the land is acquired, and disposed of, by separate instrument, which, however, constitute together but one transaction, and, in such cases, the title of the husband, frequently termed "transitory seisin," is not considered

to be of such a character as to support dower, as against the rights of those in favor of whom a disposition is thus simultaneously made by the husband. The most common instance of the application of this principle is seen in cases in which a purchaser of property, on receiving a deed thereof, gives to his vendor a "purchase money mortgage," to secure the payment of the whole, or a part, of the purchase price. It is unnecessary the wife should sign such mortgage because the deed and mortgage are considered part of one transaction and the purchaser does not take such a title as will give a right of dower to his wife as against the mortgagee, though as against all other she is entitled to dower. The same principle applies where the purchaser of the property, instead of giving a purchase money mortgage to the vendor, gives a mortgage in pursuance of a prior agreement, and as part of the same transaction, to a third person, who furnishes the purchase money, and the right of dower is subordinated to the mortgage so given. And even though no mortgage be given, the vendor's lien for the price, which in many of the States arises by operation of law, takes precedence of dower.

The widow is entitled to dower in mines and quarries belonging to her husband which were opened and worked during his life, whether they be located on his or another's land, but, strange to say, she cannot open new mines, even in the lands assigned to her as dower, on the absurd theory that this would constitute waste.

In the case of exchanged lands it was formerly held that the wife was entitled to dower in the parcel acquired and the parcel conveyed in exchange, but common sense, which is supposed to be good law and equity, has changed the rule so that it now requires the widow to choose

whether she shall have dower in those given, or received, by her husband.

By the making of a mortgage, in England, and in a number of the States of this country, the legal title is transferred, and thereafter an equitable title only, known as the "equity of redemption," remains in the mortgagor. In this "equity of redemption," as in other equitable interests, the courts refuse to recognize any right of dower. But a different view has generally been taken by the courts of this country, it being held that, though the land of the husband is subject to a mortgage, which takes precedence of dower, the wife is entitled to dower therein as against all persons except the owner of the mortgage.

If the mortgage is paid by the husband before his death, or by his legal representative after his death, the widow is entitled to the benefit of such payment and may, accordingly, have dower as though the mortgage never existed. But if the mortgage is paid, after the death of the husband, by an heir, or devisee, or other person interested in the land, the widow must contribute a proportionate part of the amount paid. If the mortgage is paid by a purchaser from the husband, as a part of the contract of purchase, it is as if it were paid by the husband and the mortgage is extinguished as against the widow's claim of dower, while it is otherwise if the purchaser voluntarily pays it.

Since a mortgagee is entitled, at most, to a mere legal estate for the purpose of securing his claim, and, in many of the States, no more than a lien, his widow is not entitled to dower.

The interest of one as tenant in common, or as coparcener with others, is subject to dower. Where the

land, jointly owned, is partitioned, the widow of one co-tenant is entitled to dower in such part of the land as is set off to her husband in severalty, and, as a general rule, in such part only. If there is a sale of the land by order of court, for the purpose of making partition, during the husband's life, the wife, if a party to the proceeding, loses her dower right in the land.

A conveyance by the husband before marriage will bar the wife's dower since the one essential of dower—ownership during marriage—is wanting. But this general rule is subject to an exception in this country, in case the conveyance by the husband is in fraud of dower—that is, is intended to deprive his future wife of dower. One may, however, before marriage, make a reasonable provision for his children of a former marriage.

Except where statute otherwise provides, the husband cannot, by making conveyance of property during marriage, without wife's joinder, bar the latter's dower. The only possible exception to this rule exists in the dedication of lands for public use, which, it has been decided, excludes the dower right. This is upon the grounds of public policy. Likewise where land is condemned for public use during the husband's life, the wife loses her right of dower therein.

In a number of States of this country, however, it is provided by statute that the widow shall have dower only in such land as the husband is seized or possessed of at the time of his death. But even the statute enabling a husband to convey lands free from dower, does not authorize a conveyance by him for an inadequate compensation for the simple purpose of barring dower, the same principle being applied to such a case as to a

conveyance by the husband before marriage. A mortgage by the husband alone, during marriage, stands on the same footing as an absolute conveyance by him so far as regards the right of dower.

The fact that one to whom the husband conveyed the land was a purchaser for value without notice of the existence of a wife having dower rights does not affect her claim for dower, unless, according to some decisions, her conduct was of such a misleading character as to estop her from making the claim.

By the foreclosure of a mortgage signed by the wife, her dower is barred, but not so if she did not join in the instrument. The dower right is also liable to be divested or impaired by the enforcement of other liens which may have existed upon the property before marriage, or before it passed to the husband, but it is superior to a lien to which the property becomes subject in the hands of the husband after marriage, except in those few States in which dower exists only in the lands of which the husband died seized, where it would be divested by a sale to enforce the lien.

The wife may release her right of dower either inchoate or consummate, to a person seized of a freehold interest in the land. Such a release is, however, usually ineffective unless the husband joins therein. In the absence of statutes authorizing such transactions between husband and wife, the wife cannot usually, after the marriage, release her dower directly to her husband, or agree with him to relinquish it, in consideration of other provisions made by him for her.

The release of dower, since it involves an interest in lands, is within the Statute of Frauds and must be by an instrument in writing.

Barring Dower

In this country the custom has universally prevailed of barring dower by the joinder of the wife in a deed to the land by the husband, and this method of barring dower is valid in cases where the conveyance is by way of mortgage, as well as when it is absolute. The conveyance should contain apt words indicating the wife's intention to release her dower and, accordingly, her mere joinder in the execution of her husband's deed has been regarded as insufficient. By the statutes of most States, it is necessary that the wife acknowledge the conveyance, the requirements in this respect being usually made the same as those imposed in the case of a conveyance of the land of a married woman, and, in some States—notably, New Jersey—she must be examined separately and apart from her husband in order to determine that she is not acting under coercion by him. These requirements as to acknowledgment have been generally regarded as absolute, so that a non-compliance therewith will render the instrument ineffective as a release of dower.

If the husband's will contains a provision for his wife, which is intended to be in lieu of dower, *and she accepts it*, she cannot claim dower. As the right of dower is itself a clear legal right, an intention to exclude that right by voluntary gift must be demonstrated by express words, or by clear and manifest implication.

In order that a testamentary provision for the widow may bar her right of dower, it is necessary that she accept it, she having what is known as a "right of election," whether she will take her dower or the testamentary gift. In order that the election be binding, it must

be made with full knowledge, on the widow's part, of the condition of her husband's estate, and the relative values of her dower interest and the testamentary provision. Such election is either regulated by statute or required by law to be exercised within a reasonable time.

No general rule as to what acts on the widow's part constitute an election can be stated, but usually her actual receipt of, or entry upon, the property given her by will, with full knowledge of the facts, and retention and enjoyment thereof for a considerable time, will be construed as an acceptance of the testamentary provision. In some States the election must be express and in others it may be implied, as just indicated.

Since, in order to entitle one to dower, she must have been the wife of the owner of the land at the time of his death, an absolute divorce, even though for the husband's fault, has always been regarded, at common law, as divesting dower. Occasionally it is provided by statute that a divorce for the fault of the husband shall not bar dower and such a statute sometimes requires dower to be assigned immediately upon divorce, without awaiting the husband's death. In this State, if the divorce be granted for the husband's adultery, he loses his right to curtesy while his divorced wife retains her right to dower in any real estate of which he then is or was seized. In case the divorce be granted to the husband because of his wife's guilt, his interests in her real and personal property remain unaffected, but she is by such decree of divorce barred of all her dower interests.

The widow, it has been held, may be estopped to claim dower by having made statements to intending purchasers that she will make no such claim, but she is not, it seems,

estopped by mere failure to assert her claim at the time of the sale of her husband's land. She has been held to be estopped by knowledge that her husband was living with another woman as his wife and failure to assert her rights during his life.

Unless it is otherwise agreed, or it is impracticable or inequitable, dower must be assigned by metes and bounds.

And in order that such assignment be valid, it must, in the absence of agreement otherwise, be of an estate for life, free from any condition or exception. In some cases, assignment by metes and bounds is impracticable, or is so inequitable that it will not be sanctioned by a court and in these cases another method must be adopted. Accordingly, if the property is so situated that it cannot be divided by metes and bounds, then the widow may be granted a proportionate part of the rents and profits, or, in some cases, a right of alternative occupation and enjoyment.

This principle is applied in cases of mines, dower in which would, if practicable, be assigned by metes and bounds, but which may be otherwise assigned in the form of a share of the rents, or profits, or a right of alternative occupation, and it is even sufficient to set out its equivalent in value in other real estate of which the widow is dowable.

If the widow is entitled to dower in separate tracts of land, the common rule is that she should be given one-third of each tract, rather than a single tract equivalent in value to the aggregate of her dower rights in all tracts. And in the case of several tracts conveyed by her husband, without her joinder, the justice of the rule that dower should be assigned in the land of each

grantee, and not in the land of one alone, is apparent. In the case of lands belonging to the husband at the time of his death, however, the statute quite frequently provides for the assignment of her whole dower out of one tract rather than in part out of each of the tracts, and this is always permissible if the widow and the heirs agree thereto. It has likewise been decided that dower should be assigned entirely out of a tract of land belonging to the husband's estate, rather than partly in lands conveyed by him with a warranty of title, since, in any case, the husband's estate would be liable under the warranty for the amount of the dower.

In cases where the widow is entitled to dower in the proceeds of the lands subject to dower, as where a mortgage thereon is foreclosed, or a partition sale is made, she is generally given the annual interest on the third part of such proceeds for the period of her life. The parties may agree upon a gross sum to be paid the widow as representing her dower interest. But, in the absence of agreement, unless expressly authorized by statute, a gross sum cannot be given her by the Court in lieu of dower. When an assignment of the gross sum is made by the Court, in accordance with an agreement of the parties, or by force of the statute, or in any other case, the present value of the dower interest is usually computed, as in the case of other life estates, by reference to mortality tables indicating the expectation of life at the different ages.

The amount of property to be assigned to the widow is determined by its productive value, she being entitled to such property as will produce one-third of the rents and profits which all the husband's freehold property would produce.

Since dower is an estate only for the life of the widow, an action to obtain an assignment of dower necessarily abates on her death. And as there can be no recovery of damages at law unless the judgment likewise awards seisin of dower lands, the widow's death defeats such recovery, in the absence of statutory provision to the contrary, but does not prevent recovery of the rents and profits, in equity, provided suit for dower was brought during her life.

Assignment of dower, in accordance with the judgment or decree, is generally made by the sheriff or commissioners, the practice in this regard varying in the different States, but the action of such officials being usually subject to the approval of the Courts.

The estate of dower, after assignment, is considered to be a continuation of the husband's estate, the widow's title relating back to the time of his death, and consequently the heir is not regarded as having ever been seized of that part of the land whereof the widow was endowed. The widow has an estate for life in the property assigned, with all the rights and subject to all the liabilities of other life tenants. She may accordingly convey or incumber *her* estate. She is bound to pay taxes and to keep down interest on incumbrances, and she is liable for the commission of waste.

On the termination of the dower estate by her death the person who has a reversion after the dower estate, whether he be the husband, heir or devisee, or a grantee of the land, is entitled to immediate possession.

The Legislature of this State has never enacted a "Homestead Law," except to exempt a homestead of the value of $1,000 from execution sale.

THE TENEMENT HOUSE LAW*

LAWRENCE VEILLER

Principal Requirements of the Act Governing Erection and Management of Tenement Property—Definition of a Tenement—Penalties for Violations—Occupancy and Use of Tenement Houses—Alterations in Existing Buildings—New Buildings

THIS act affects the cities of New York and Buffalo, and provides how tenement houses hereafter erected shall be constructed, and also how all tenement houses shall be maintained. It also contains requirements for the improvement and alteration in many ways of existing tenement houses. A tenement house is defined to be any building occupied or intended to be occupied by three families or more, and includes buildings popularly known as apartment houses and flats. The act also defines a yard, court, shaft, public hall, stair hall, basement, cellar, etc. The act is divided into six chapters: Chapter 1, definitions; Chapter 2, protection from fire; Chapter 3, light and ventilation; Chapter 4, sanitary provisions; Chapter 5, remedies, and Chapter 6, general provisions.

Purchasers of tenement property before passing title should search the records of the Tenement House Department to ascertain what violations of the Tenement House Act are pending against such property. Such

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searches will be made by the Department free of charge for all persons having a legitimate interest.

Before any new tenement house can be lawfully occupied the law requires that the builder shall receive a certificate from the Tenement House Department to the effect that the building has been erected in accordance with the provisions of the Tenement House law. Real estate operators should refuse to make loans unless such certificate is produced. If a tenement house is occupied without such certificate, it is provided that during such unlawful occupation any note secured by a bond or mortgage upon the building or the lot upon which it stands may be declared due at the option of the mortgagee, and that no rent shall be recoverable by the owner or lessee of the premises for this period, nor may an action or special proceeding be maintained therefor, or for possession of the premises or for non-payment of rent. And it is further provided that the house shall be deemed unfit for human habitation, and the Tenement House Department shall cause it to be vacated accordingly.

Enforcement of the Act — In New York City the Tenement House Law is enforced by a separate branch of the city government, *viz.*, the Tenement House Department, which was created on January 1st, 1902. The head of the Department is the Tenement House Commissioner. The main office is at 44 East 23d Street, corner of Fourth Avenue, 4th floor. Branch offices are located as follows: In Brooklyn, 44 Court Street, Temple Court Building; in the Bronx, 2804-2808 Third Avenue. The Brooklyn office of the Department has jurisdiction over tenement houses in the boroughs of Queens and Richmond, as well as Brooklyn.

The provisions of the Tenement House Act in regard to new buildings are enforced entirely by the Tenement House Department, and the Bureau of Buildings of each borough has jurisdiction only over the provisions of the Building Code so far as they may relate to tenement houses. This includes plumbing in new buildings. The duties of sanitary inspection formerly performed by the Department of Health have been transferred to the Tenement House Department, except that the Department of Health retains its general work of looking after contagious disease, disinfection of premises, etc. Plans for all new tenement houses must be filed with the Tenement House Department and approved by it before any permit for the erection of such building can be issued by the Bureau of Buildings.

Registry of Owners' Names — Every owner of a tenement house is required to file in the Tenement House Department the street number and address of the house, the name and address of the owner, the number of apartments in the house, the number of rooms in each apartment, the number of families occupying the apartments. In case of a transfer of any tenement house, it becomes the duty of the grantor or grantee to file in the Tenement House Department a notice of the transfer, stating the name and address of the new owner within thirty days after the transfer. The penalty for failure to comply with this section is $50. It is further provided that every owner may, for his own convenience, file in the Tenement House Department a notice containing the name and address of an agent of the house, for the purpose of receiving service of process.

Penalties for Violation of the Tenement House Act—Every person who shall violate or assist in the

violation of any of the provisions of the act shall be deemed guilty of a misdemeanor, punishable by imprisonment for ten days for each and every day that the violation continues, or by a fine of not less than $10 nor more than $100; if the violation be wilful, by a fine of $250, and in every case $10 for each day after the first that the violation shall continue, or by both such fine and imprisonment, in the discretion of the court. The penalty for the obstruction of fire escapes by an occupant of a tenement house shall be a fine of $10, which the nearest police magistrate shall have jurisdiction to impose.

Service of Notices and Orders—The posting of a copy of a notice or order in a conspicuous place in a tenement house, together with the mailing of a copy on the same day to each person whose name has been filed with the Tenement House Department, shall be deemed sufficient service, and summons may be served in the same way.

MAINTENANCE, OCCUPANCY AND USE OF TENEMENT HOUSES

Combustible Materials, etc.—No tenement house, nor any part of it may be used as a place of storage for any combustible article, except with a written permit from the Fire Department; nor shall any tenement house nor any part thereof be used under any circumstances for the storage of any article dangerous to life or health; nor for the storage of hay, feed, straw or cotton; nor for the storage or handling of rags. No bakery and no fat boiling may be maintained in any tenement house that is not fireproof throughout, unless the ceiling and

side walls of the bakery or place where the fat boiling is done are made safe by fireproof material around the same. Transoms or windows opening into the halls from any portion of the building where paint, oil, spirituous liquors or drugs are kept for the purpose of sale or otherwise must be glazed with wireglass or closed up as solidly as the rest of the wall, and all doors leading into the hall from that part of the tenement house must be made fireproof.

Basements and Cellars—No room in the basement or cellar of a tenement house may be occupied for living purposes without a written permit from the Tenement House Department; nor shall any such room be occupied unless it is at least seven feet high in every part, from the floor to the ceiling; nor unless the ceiling of the room is at least two feet above the curb level; nor unless there is the use of a water closet for such room; nor unless there is outside of, and adjoining the room, and extending along its entire frontage, an area of at least 2 feet 6 inches in width at every part, the area to be properly drained, and the room to have a window or windows at least nine square feet in area opening to the outer air, and one-half of the window must be made to open readily.

Cellar Walls, Ceilings, etc.—The cellar walls and ceilings of every tenement house must be whitewashed or painted a light color by the owner at least once a year. Roofs of tenement houses must be kept in good repair so as not to leak. Every tenement house must have water furnished in sufficient quantity at one or more places on each floor, and the owner must supply proper and suitable tanks, pumps or other appliances to receive and distribute an adequate supply of water

at each floor at all times of the day and night through the entire year.

Every tenement house must be kept clean and free from any accumulation of dirt, filth or garbage, and the owner must provide proper and suitable receptacles for ashes, garbage, refuse and other material. No wall paper may be placed upon the wall of any tenement house unless all wall paper shall have been removed therefrom and the wall and ceiling thoroughly cleansed. The walls of all areas, courts and shafts, unless built of a light-colored brick or stone, must be thoroughly whitewashed by the owner at least once in three years, or painted a light color at least once in five years. The keeping of certain animals on premises is prohibited, and no tenement may be used for a lodging house or stable.

Janitor—Wherever there are more than eight families in a tenement house and the owner does not reside on the premises, there must be a janitor or housekeeper residing there, provided the Tenement House Department so requires it. No room in a tenement house shall be so overcrowded that there shall be less than 400 cubic feet of air for each adult and 200 cubic feet for each child under twelve.

Public Halls — Lighting at Night — It is required that a light shall be kept burning by the owner in the public hallway near the stairs on the entrance floor, and on the second floor above the entrance floor every night from sunset to sunrise throughout the year, and upon all the other floors of the house from sunset until 10 o'clock.

Fire Escapes and Egress — Every tenement house must have a fire escape directly accessible to each apart-

ment. Every tenement house must have in the roof a bulkhead or scuttle, with stationary ladder or stairs leading thereto, and kept free from encumbrance. No scuttle and no bulkhead door shall be locked with a key, but may be fastened on the inside with movable bolts or hooks. All stairways must be provided with proper banisters and railings and kept in good repair.

Toilet Accommodations—There must be one water closet for every two families or apartments in each tenement house.

Prostitution—A woman who knowingly resides in or commits prostitution in a house for prostitution or assignation in a tenement house, or solicits any man or boy to enter therein for purposes of prostitution is deemed a vagrant, and upon conviction shall be committed to the county jail for a term not exceeding six months. A tenement house, if used for the purpose of a house of prostitution or assignation with the permission of its owner or agent, shall be subject to a penalty of $1,000, and the penalty shall be a lien upon the house and the lot upon which the house is situated. A tenement house shall be deemed to have been used for this purpose with the permission of the owner and lessee if summary proceedings for the removal of the tenants complained of shall not have been commenced within five days after notice of such unlawful use from the Tenement House Department. In a prosecution against the owner or agent of a tenement house under section 322 of the Penal Code the general reputation of the premises in the neighborhood shall be competent evidence, but shall not be sufficient to support a judgment without corroborative evidence, and it shall be presumed that the use of the premises was with the knowledge of the

owner or lessee, provided such presumption may be rebutted by evidence. Whenever the liens upon tenement property established by judgment amount to $1,000 or over, the Tenement House Department shall appoint a receiver of the rents and profits of such property.

ALTERATIONS AND IMPROVEMENTS REQUIRED FOR EXISTING BUILDINGS

Interior Dark Rooms, Lighting and Ventilation of—No room in a now existing tenement house may be occupied for living purposes unless it has a window upon the street or upon a yard not less than four feet deep, or upon a court or shaft not less than twenty-five square feet in area, open to the sky without roof or skylight, or unless it has a sash window opening into an adjoining room in the same apartment, the sash window between it and the outer room to contain fifteen square feet of glazed surface and to be at least 3 feet by 5 feet, and one-half made to open readily.

Privy Vaults, School Sinks, etc.—All school sinks and privy vaults in the yards of now existing tenement houses must be completely removed and the places where they were located be thoroughly disinfected under direction of the Tenement House Department, and instead of school sinks or privy vaults proper water closets must be provided. There must be one water closet for every two families or apartments in the house. Such water closets may be located on each floor in the building or otherwise in the building, or, if desired, may be placed in the yard, provided the bowls, traps, pipes, and flush tanks can be properly protected from frost. If placed in the yard, long hopper closets may be used, but such

closets must be provided with individual traps and properly connected flush tanks.

Water Closets and Public Sinks—In all tenement houses the woodwork enclosing water closets and all public sinks located in the public halls or stairs must be removed from the front of the closet or sink and the space underneath left open and maintained in good order and kept well painted with white paint.

Public Halls, Lighting of — In every now existing tenement house four stories high or over, wherever the public hall on any floor is not light enough for a person to read without artificial light in the daytime, the wooden panels in the doors located at the ends of the public hall and opening into rooms must be removed and ground glass or wire glass panels of an area not less than four square feet for each door substituted, or the halls may be lighted by a window at the end of the hall. This does not apply to flats where there are private halls, but only to tenement houses where the public halls communicate directly with the rooms. In addition every public hall must have directly over the stairwell a ventilating skylight with ridge ventilators and fixed louvres, the glazed surface of the skylight to be not less than twenty-five square feet in area.

NEW BUILDINGS

Fireproof Tenements — Tenement houses hereafter erected must not exceed six stories in height above the curb level, unless constructed fireproof. A basement is deemed a story, and a cellar is also if the cellar ceiling is more than two feet above curb level.

Fire Escapes — Fireproof tenement houses are not

required to have fire escapes under the act. All non-fireproof tenement houses hereafter erected must be provided with fire escapes and there must be one fire escape opening directly from at least one room in each apartment. Vertical ladders are prohibited, and stairs at an angle of not more than sixty degrees are required. The law describes in detail how all fire escapes shall be constructed. In tenement houses less than four stories in height, and which also do not contain accommodations for more than four families, iron, steel or wire fire escapes, of a pattern to be approved by the Tenement House Department, may be used, instead of iron balconies and stairs.

Stairways—In non-fireproof tenement houses hereafter erected there is to be one flight of stairs for every 26 apartments, but if the house contains not more than 36 apartments the halls and stairs may each be widened one-half in lieu of another flight of stairs. In fireproof tenement houses hereafter erected there must be one flight of stairs for each 36 apartments, but if there are not more than 48 apartments in the house, the halls and stairs may be widened one-half in lieu of the second stairway. All stairs must have a rise of not more than seven and a half inches, with treads not less than ten inches in width and three feet in length. Winders are permitted under such conditions. All stairs must be fireproof construction; risers, strings and banisters to be metal or stone; treads to be of metal or stone, or of hardwood not less than two inches thick.

Public Halls—No public hall can be less than three feet wide and the stair halls in all tenement houses hereafter erected are to be constructed fireproof throughout; floors to be of iron or steel beams and fireproof flooring;

no wooden floorings or sleepers to be permitted. Stair and entrance halls must be enclosed on all sides with brick walls, and in non-fireproof tenement houses hereafter erected the doors opening from stair halls must be fireproof and self-closing. Transoms or other openings from stair halls to other parts of the house are prohibited. The stair halls are to be shut off from all non-fireproof portions of the public halls and from all other non-fireproof parts of the building on each story by self-closing fireproof doors. Windows of stair halls opening on courts must be wire-glass and fire-proof frames. Entrance halls must be at least three feet six inches wide, access to be had from street to yard. New buildings not over three stories and cellar in height are exempted from the fireproofing requirements of these provisions.

Beams—In all tenement houses hereafter erected five stories or more in height, not including the cellar, the first floor above the cellar is to be constructed fireproof, with iron or steel beams and fireproof flooring. In non-fireproof tenement houses hereafter erected less than five stories in height, when the first tier is not constructed fireproof, the cellar ceiling is required to be lathed with wire or metal lath.

Cellar Stairs—In non-fireproof tenement houses exceeding three stories in height inside stairs to the cellar are prohibited; and where outside stairs to the cellar are enclosed, they are to be constructed fireproof. In fireproof buildings the cellar stairs may be inside the building, provided they are not located underneath the stairs leading to the upper stories, and that the portions of the cellar into which the stairs lead are entirely shut off by fireproof walls, with fireproof doors to all open-

ings in such walls, from those portions of the cellar used for the storage of fuel or in which heating appliances, boilers or machinery are located. In non-fireproof tenement houses hereafter erected, closets under the first-story staircase are prohibited, and the space is required to be left open. In every tenement house hereafter erected an entrance to the cellar from the outside of the building is required, and where the first tier of beams is not fireproof and the building exceeds three stories in height, all wood bins or receptacles for fuel or storage in the cellar must be constructed fireproof.

Frame Tenement Houses—Outside of the fire limits wooden tenement houses may be constructed, but must not exceed two stories in height, not including the cellar, nor must they provide accommodations for nor be occupied by more than four families nor have more than two families on a floor. Such houses are exempted from complying with practically all of the provisions of the act in regard to protection from fire. No wooden building may hereafter be built or placed upon the same lot with a tenement house within the fire limits.

Percentage of Lot Occupied — In tenement houses hereafter erected, buildings on corner lots may not occupy more than 90 per cent. On interior lots only 70 per cent of the lot may be occupied. In certain cases the measurements may be taken at the levels of the second tier of beams.

Limitation of Height—No tenement house hereafter erected shall exceed in height the width of the widest street upon which it stands by more than one-half. This limits new buildings on streets 60 feet wide to 90 feet high, and on avenues 100 feet wide to 150 feet in height.

This limitation is entirely irrespective of any provision regarding fireproofing.

Yards—Yards of tenement houses hereafter erected on corner lots must be not less than ten feet deep, and extend across the full width of the lot. On interior lots the depth of the yard is to be proportioned to the height of the building. For houses sixty feet high the yard must not be less than twelve feet deep, and for every twelve feet or fraction thereof beyond sixty feet in height the yard must be increased one foot in depth. Similarly for every twelve feet in height less than sixty feet, the yard may be decreased one foot, but it shall in no case be less than ten feet deep. On corner lots, where it is intended to have stores on the ground floor, the yard may start from the second tier of beams. Where a tenement house runs through from one street to another street, and the lot on which the house is situated is less than seventy feet in depth, no yard space is required. Where the lot is over seventy feet deep, and not over one hundred feet, the yard need only be twelve feet deep for a building sixty feet high, and shall be left through the center of the lot. Where lots that are over one hundred feet in depth run through from street to street, the yard must be left through the center of the lot, and must be twenty-four feet deep, and must increase with the increased height of the building.

Courts—The act distinguishes between outer and inner courts, an outer court being one with one entire side open to the street or yard, and an inner court being one enclosed on all four sides or enclosed on three sides and bounded on the fourth side by the lot line of the building. All courts must be open at every point to the sky unobstructed. Outer courts, where situated on the lot line,

must be at least six feet wide in every part for buildings sixty feet in height, and for every twelve feet of increase in the height of the building the width of the court must increase six inches throughout the entire height of the court, and may similarly decrease six inches in width for every twelve feet in height of the building less than sixty feet. Outer courts between wings of the same building, or between different buildings on the same lot, must be twelve feet wide in every part, and must increase one foot in width for every twelve feet of increase in the height of the building over sixty feet, and may similarly decrease one foot in width for every twelve feet of height less than sixty feet. An exception is made to this rule, however, by providing that where an outer court is less in depth than the minimum width prescribed by the act, its width may be equal to its depth; for example, if an outer court between wings is only eight feet deep, it may be only eight feet wide instead of twelve feet wide, etc. Similar exceptions are made for offsets in recesses in such courts. Inner courts when situated on the lot line are required to be twelve feet wide in every part and to increase six inches in width for every twelve feet in height beyond sixty feet, and may decrease similarly in width for every such decrease in height. Inner courts not on the line, but enclosed on all four sides, must not be less than twenty-four feet in each direction and must increase one foot in each direction for every twelve feet of increase in the height of the building beyond sixty feet, and may decrease one foot in each direction for every twelve feet of decrease in the height of the building below sixty feet. Similar exceptions to those provided for outer courts are provided for, but no windows except windows of water

closets, bathrooms or halls shall open upon any offset or recess less than six feet in width. Every inner court must be provided with one or more horizontal intakes or ducts at the bottom to provide a circulation of air, and such intakes or ducts may not be less in total area than 4 per centum of the area of the inner court, and a minimum size of five square feet for each intake is prescribed. These intakes must always communicate directly with the street or yard, and may consist either of a metal duct or pipe, or may be an open passageway provided with iron grilles or grates at each end. In new buildings not over three stories high and arranged for not more than two families on a floor or six families in all, outer courts are permitted four feet wide, if not over twenty-four feet long, and inner courts are permitted to be eight feet wide and fourteen feet long.

Rear Tenements—Rear tenements are prohibited on any lot less than fifty-one feet in width, and whenever any building is hereafter placed on the same lot with a tenement house the space between the buildings is to be regulated in a manner similar to the rules laid down for the size of inner courts.

Rooms—Alcove rooms are prohibited. No room can be subdivided so as to make a dark portion of the room. In every tenement house hereafter erected every room except water closet compartments and bathrooms must have at least one window opening directly upon the street or upon the yard or on a court of the minimum size prescribed by the act. Water closet compartments and bathrooms may have windows opening on vent shafts which do not light or ventilate other rooms or halls. Such vent shafts must be at least twenty square feet in area and not less than four

feet in their least dimension, and when the building is more than sixty feet in height, must increase in area three square feet for every twelve feet of increase in the height of the building. Such shafts may not be roofed over, and must be provided with a proper intake of air at the bottom. In all rooms excepting water closets and bathrooms the total window area in each room must be at least one-tenth of the superficial area of the room, and no window must be less than twelve square feet in area between the stop beads; in water closets and bathrooms, however, the windows may not be less than three square feet in area nor less than one foot in width.

Size of Rooms—In each apartment there must be at least one room containing at least 120 square feet of floor area, and all other rooms shall contain at least seventy square feet of floor area. This does not apply, however, to water closet compartments and bathrooms. All rooms must be not less than nine feet high from the floor to the ceiling.

Public Halls, Light and Ventilation of—In tenement houses over four stories high or that are occupied by more than two families on any floor, every public hall must have at least one window opening directly upon the street, yard or court. If the window is not at the end of the hall with the plane at right angle to the axis of the hall, then there must be one window for every twenty feet in length, or fraction thereof, of the hall. Where there are recesses in such halls and the length of the recess exceeds twice its width, additional windows must be provided for such recesses. If any part of a public hall is shut off from any other part of the hall by a door or doors, it is considered a separate hall, and

must be lighted and ventilated separately. At least one of the windows in the public hall must be not less than two feet six inches wide and five feet high. In stair halls the aggregate area of windows should not be less than eighteen square feet, and there must be provided for each story at least one window which shall not be less than two and a half feet wide and five feet high. In addition to windows there must be in every hall directly over the stairwell in the roof a ventilating skylight with ridge ventilators and fixed louvres, with an area of not less than twenty square feet.

Privacy—In every apartment of three or more rooms access to every living room and bedroom and to at least one water closet compartment must be had without passing through any bedroom.

Basements and Cellars—In new tenement houses basements may be occupied for living purposes only when at least nine feet high in every part from the floor to the ceiling, when the ceiling of the room is at least four feet six inches above the curb-level, and there is a separate water closet provided for the use of the room. Such rooms must have a window opening directly upon the street or upon the yard or on a court of the minimum size prescribed in the act, and the total window area of the room must be at least one-eighth of the superficial area of the room. The walls surrounding the room must be dampproof, and the floor of the room must be both waterproof and dampproof. In all tenement houses hereafter erected, whether the basement is to be occupied for living purposes or not, the walls below the ground level and all cellar floors must be dampproof and water proof. In addition to the above, janitors' apartments are permitted in the cellars of new buildings, provided they

do not contain more than five rooms and bath, are located in the rear of the building, and are entirely above the level of the adjoining yard and courts and also the ceiling is at least two feet above the curb-level of the street in front of the building.

Drainage of Shafts, Courts, Areas and Yards—All shafts, courts, areas and yards must be concreted, graded, drained and properly connected with the street sewer.

Water Closet Accommodations — In all tenement houses hereafter erected there must be a separate water closet for each apartment, and the water closet must be located within the apartment. The floor of the water closet compartment must be constructed waterproof with a six-inch base around the same. Drip trays are prohibited, as is the enclosing of water closet fixtures with any woodwork; water closets and plumbing must be constructed in accordance with the plumbing code of the city.

Miscellaneous Provisions—In every tenement house hereafter erected there must be running water in each apartment. The floor of the cellar must be made watertight, and the ceiling of the cellar must be plastered. At the bottom of every shaft and in all courts there must be a self-closing fireproof door, giving access to such shaft or court.

CHARTER PROVISIONS RELATIVE TO TENEMENT HOUSES

In addition to the above provisions contained in the Tenement House Act, detailed provisions with regard to the powers, duties and organization of the Tenement House Department will be found in the Greater New York Charter, Chapter XIXa, Sections 1326 to 1344p.

WATER-FRONT PROPERTY

McDOUGALL HAWKES

Appraisals and Expert Testimony—Condemnation Proceedings—Ownership in the Various Boroughs—Leases—Purchases and Sales—Land Under Water—Grants—Improvements—Management—Records

It would be impossible, in the short space of a chapter, to treat, even in the most cursory manner, the many matters connected with our water-front of which knowledge would prove of service. The subjects which have been selected are confined entirely to those of immediate practical value. Nor is it even possible to go into many of the refinements of the subjects, which must be carefully taken into account in estimating on values, and in determining the most advantageous course for clients to pursue. To any one making a specialty of water-front property, in forming opinions of values by deduction from existing and former conditions, not only will general knowledge of water-front engineering and law prove of great assistance, but special knowledge also of city finance and administration, and of the policy which the city has pursued in water-front matters in Manhattan will be of great benefit. If you should proceed to a study of city finance, you will find one of its most important divisions, the city's sinking funds (which have for some forty years borne a close relation to the development of the Manhattan water-front) very intricate; in short, the difficulty of obtaining knowledge of water-front matters is of itself evidence of their

frequently highly technical character. Very careful study, before arriving at conclusions in water-front questions, cannot be too strongly urged.

Character of Water-front Property

In a general way, water-front property refers to real estate, improved, or unimproved, bordering upon navigable waters and upon which are lines of high and low water mark, indicating the difference of the level of the water at the ebb and flow of the tide, which varies in different seasons and according to the direction of the wind and for other reasons. When high water mark or low water mark are spoken of they should be understood, unless otherwise specified, to mean the average high or low water mark; that is to say, the mean of the greatest height to which the flood tide brings the water, or the mean of the lesser height at the ebb of the tide, during a certain period, such as a year. In many instances the term "water-front property" is used to distinguish rights which exist in connection with improvements along the water-front, such as a bulkhead right (that is, the right to collect cranage and wharfage along a stretch of water-front which has been improved by a bulkhead), or pier rights (that is, rights of cranage and wharfage at a pier built out over land under water but connected with upland in the rear of the water line). These "water-front property" rights may belong to an owner who is not the proprietor of uplands in the rear.

There are also "water-front property" rights of still different character, but generally those rights which you will find most valuable are the rights to the use of land under water for the support of piers and platforms, and

pier rights and bulkhead rights with which pass, sometimes, rights of passage over land in the rear. Then there are certain "water-front property" rights which are particularly valuable in many instances, this particular value arising from a combination of bulkhead or pier rights, with the ownership of upland which may even be physically separated from the line along which frontal rights exist by a marginal street, quay, or wharf. Such a joining in ownership of upland with frontal rights gives to these frontal rights frequently an unusual and additional element of value which is known as the conjunctive value of the bulkhead rights, the pier rights, etc.

In some instances these "water-front property" interests arise from statutory provisions, in other instances from grants and similar instruments, and in other instances still, such as in the case of a right of access to land reaching to the low water mark, from ancient customs which may be said to give rise to common law water-front property rights. In some instances the physical ownership of a bulkhead or pier may be in one person, and the rights to cranage and wharfage at the bulkhead or pier in another. The owner of pier rights may own the land under water on which the pier stands, or he may only own the pier, as distinguished from the land under water, or he may have only the rights as distinguished from the structure of the pier. Frequently the ownership of rights carries obligations to keep in repair, etc.

Extent of the Water-Front

Within the limits of Greater New York, including all the boroughs, the water-frontage, measured

along the high water mark, including improved and unimproved property, is in the neighborhood of 445 miles, about the distance between Manhattan and Buffalo. No other port in the world has such an extent of water-front, which fortunately, in a large measure, is of such a physical character as to be susceptible of easy commercial water-front development.

Ownership in Manhattan

The ownership of the water-front varies greatly according to the boroughs, the municipality having comparatively little property except around the Island of Manhattan, which forms the old city and county of New York. Around the Bronx, Queens, Brooklyn and Richmond boroughs ownership is generally in the State of New York or private individuals or corporations, though this ownership in many places has not yet been finally determined by decisions of the courts in legal proceedings which have arisen through claims made by the municipality as successor to the old townships now incorporated in the city limits.

In Manhattan the municipal ownership is about three-fifths of the water front, and it is in this borough that the water-front has attained its greatest value and where the greatest congestion exists. To give in detail an idea of water-front titles in the various boroughs—strictly a legal question—though interesting and generally little known, would occupy too extended space for this chapter. I must confine myself to saying that around Manhattan the Dutch West India Company, claiming ownership, made the earliest transfers of title, and a map exists of such of these transfers as were situated below Wall

WATER-FRONT OF NEW YORK CITY IN 1902

Compiled from the Greater New York Water-front Survey, Maps, Etc.

	Borough of Manhattan. (Miles.)	Borough of The Bronx. (Miles.)	Borough of Brooklyn. (Miles.)	Borough of Queens. (Miles.)	Borough of Richmond. (Miles.)	Totals.
Length of shore line of water-front (*i. e.*, measured along bulkhead where property is improved and along high-water mark where property is unimproved).....	39.9	105.6	132.3	116.0	51.0	444.80
Length of water-front including detail around piers, slips, basins, etc.	88.2	112.9	197.2	132.0	69.6	599.90
Length of water-front owned by the City measured along the shore line	23.51	20.60	3.87	0.08	0.03	49.09
Length of water-front owned by the City measured along details	58.23	20.91	5.59	0.32	0.03	85.08
Old and New Plan combined:						
Length of improved property measured along bulkhead	.....	.....	.....	.....	.....	.....
Belonging to the City.....	10.68	1.04	1.45	0.07	.....	13.24
Belonging to private individuals.....	5.81	(a) 3.42	(b) 20.21	(c) 8.36	(d) 9.33	47.13
New Plan:						
Bulkhead wall built on City property completed to granite facing, about.....	6.	.....	0.50	.....	.....	.....
Old and New Plan combined:						
Length of improved property including detail around piers, slips, basins, etc.....	.....	.....	.....	.....	....	.....
Belonging to the City.....	45.29	1.71	3.17	0.31	....	50.48
Belonging to private individuals.....	17.96	(a) 8.82	(b) 55.93	(c) 14.65	(d) 31.43	128.79
City property not improved but available for commercial improvement, measured along high-water line, being total City property less Park property.....	7.14	4.79	.....	0.01	0.03	11.97
City property used for park purposes, measured along bulkhead and high-water lines.....	5.69	14.77	2.42	.....	.....	22.88
Water-front owned by the City at Blackwell's and Randall's Islands	5.96	.....	.....	.....	.....	5.96
Water-front owned by the City at Riker's, Hart's and North Brother Islands.....	.....	5.00	.....	.....	.....	5.00

(a) This includes the wharves and piers on U. S. Govt. property at Fort Schuyler, *i. e.*, property not belonging to City.

(b) This includes the wharves and piers on U. S. Govt. property at the Brooklyn Navy Yard and Fort Hamilton.

(c) This includes the wharves and piers on U. S. Govt. property at Willetts Point.

(d) This includes the wharves and piers on U. S. Govt. property at Tompkinsville (Lighthouse Dept.) and Fort Wadsworth.

Street. All further transfers by this company, of course, ceased with the first occupation of New Amsterdam by the British (1665). In regard to this occupation and the subsequent change of sovereignty from the British Crown to the People of the State of New York, it must be borne in mind that, by force of treaties, statutes and well-established principles of law, all the land which in 1775, the beginning of the War of Independence, belonged to the Crown of Great Britain became vested in the People of the State. With respect to lands to which titles before that had been legally acquired by individuals, either from the British Crown or under Dutch rule prior to 1665, the change from Dutch to English sovereignty and through the Revolution from the Crown to the People of the State, effected no forfeiture, of itself, of the individual ownership in such lands.

Immediately upon the assumption of English sovereignty, the City of New York received its first English municipal charter, known as the Nicoll Charter. This was followed by the Dongan Charter (1686), the Cornbury Charter (1708) and the Montgomerie Charter (1730), in all of which last three charters grants of water-front property were made to the municipality by the Crown, these grants being, however, subject to grants already made by the Crown to private individuals. The first of these grants to the city, and which was in the Dongan Charter, was of the land between high and low water mark all around the Island of Manhattan and confirmed to the municipality ownership of the first docks built—which had been constructed in the city at the foot of what is now Broad Street, through which in early days was a canal. These were known as the East

and West Wet Docks, into which docks what would now be called a pier, but which was then called a bridge, extended.

The Cornbury Charter gave to the old City of New York ferry and other rights along the Brooklyn shore, and the Montgomerie Charter gave to the city the land under water in the Hudson River to a distance 400 feet beyond low-water mark, from a little stream called Minetta Rivulet (emptying into the Hudson at what is now about the foot of West Houston Street), down to the Battery; and thence, excepting a short stretch which was in front of the then British Fort George, up the East River as far as Corlear's Hook.

After the Revolution the State made various grants to the city around the Island of Manhattan, and some grants to private individuals. But most of the private ownership around Manhattan arose through direct grants made in turn by the city of property which it had thus received from the Crown or the State of New York; and the bulkhead rights and pier rights, which are now being condemned as the work of municipal improvement of Manhattan's water-front progresses, came generally from grants by the city or from authority given by the city under various statutes (such, for example, as the Law of 1798) to private riparian owners to build out piers over land still owned by the city, or to construct bulkheads, with rights of cranage and wharfage on these piers and against these bulkheads, to those paying for their construction.

In connection with the foregoing it is interesting to note that the original line of high-water mark along the East River was Pearl Street, and along the North River Greenwich Street.

Ownership in Other Boroughs

In the Bronx water-front, the original titles to land in private owners came through grants from Governors Nicoll, Dongan, etc., and Letters Patent such, for example, as the Pelham grant issued to Thos. Pell in 1666, and through grants from the townships of Morrisania. West Farms, etc., of property previously granted to them.

In Brooklyn and in Queens there were a number of Colonial grants made to the inhabitants and towns, such, for example, as the Breuklen patent (from Governor Nicoll), October 18, 1667, covering the Gowanus, Bedford and Wallabout districts. The towns, in turn, after receiving their grants, frequently divested themselves of titles by grants of water-front to private individuals; but lands under water within the old town limits on Long Island were not, as a general rule, conveyed by the towns until of recent years, when they became of considerable value and were frequently sold.

Under the original patents the towns obtained havens, harbors, creeks, marshes, waters, rivers, lakes, fishing, etc., and such of the property rights as were acquired by the old towns and not ceded by them now belong to the Greater City. The old City of New York made grants to owners of upland along the Brooklyn shore of land under water in front of their property.

In Richmond Borough, as the Colonial patents on Staten Island appear to include no water grants, the only way generally in which the city can at the present moment own property would be by a grant from the State of New York to the old townships and villages within Richmond county, or through condemnation pro-

ceedings in street openings taken by these authorities, though the highway laws under which the roads in Richmond county were opened did not vest an absolute public ownership in fee in the beds of the roads and streets. Private ownership in this borough has, therefore, arisen generally by direct grants from the State.

In all the boroughs the United States Government has acquired water-front properties (such as the barge office site in Manhattan, the navy yard in Brooklyn, the light-house station in Staten Island, Fort Schuyler's site in the Bronx) by grant coupled with a ceding by the State to the Federal Government of jurisdiction over the property acquired.

Improvements—Cost—Tidal Differences

The two principal plans of water-front improvements adapted to shipping are, in general, the basin plan and the pier plan. If we look to see in which ports each has been put into operation, we will find that in those ports where there is a large tidal difference the basin plan is adopted, while in those ports where the tidal difference is small, say, below eight feet, the pier plan has been adopted. The plan of water-front improvement depends in reality upon the tidal differences in a port. The most typical example in the world of the basin plan is to be found in Liverpool, where there is a rise and fall of the tide varying from eighteen to twenty-five feet, the system, in brief, consisting of a number of basins in which the water and ships are allowed to enter when the tide is full. As it begins to ebb, locks, similar to canal locks but much stronger, are closed and the depth of water obtained in the basin at high tide is thus pre-

served for the flotation of the ships which have entered, until a new high tide makes it possible to open the locks again. Ships are limited to a very small part of the day in which to enter and leave basins. This system requires the most solid and expensive form of masonry construction, and is the most costly plan of improvement which can be adopted, but, of course, presents a handsome appearance, and is lasting and provides fireproof structure. The other plan consists in building a marginal quay, wharf or street with a bulkhead (either crib or wall), from which, generally at right angles, piers, built on cribs or spiles, project toward the channel. This system is the one adopted in New York, where the rise and fall of the tide is between four and a half and eight feet, generally five. The pier system is constructed at much lower cost than the basin system, and has a number of advantages, among others that of elasticity to ships lying against piers, and is economical of wharfage room. Its chief disadvantage is the generally inflammable character of the sub-structure, as spiles are still generally of wood, though ferro-concrete piling, which is absolutely fireproof and which has been in use in Europe for some time, is beginning to be considered for water-front work in this country.

The most expensive feature of the "new plan" system used around Manhattan to-day is building the bulkhead wall, of which there are over twenty different types, the cost of which may be generally estimated from $300 to $450 per running foot. The crib bulkhead, which characterized the "old plan," may cost as low as $30 a running foot, and is still used in many places. The tendency of the weight on the top of a marginal street is to push the bulkhead wall out or to overturn it; hence,

various arrangements of platforms have been devised to suit local conditions, and to change the direction of this overturning force, known to engineers as a thrust. It is to these various attempts to change the direction of the thrust, and the different character of the bottom at various places, that the different types of wall are due.

Dredging is the first operation in the building of the bulkhead wall. This is known as crib dredging, to distinguish it from dredging alongside piers and bulkheads already constructed, to maintain a certain depth of water, which is known as mud dredging. As to the cost of the construction of piers, this varies very much with the price of materials, such as spiles, and particularly with the length of the spiles required to sustain the pier.

Municipalization—"Old Plan"—"New Plan"

Previous to 1870 piers and crib bulkheads had been built around the water-front of Manhattan according to the "old plans," which had been devised in some instances by the city's street commissioner; in other instances as a direct result of action by the Legislature of the State; and had become in size and character inadequate to meet the growing demands of the commerce of the port. When a new City Charter was adopted by the Legislature in 1870, provision was made for a separate dock department to have charge of the water-front, which was known in the charter as the Board of Docks. This board was empowered under the laws of 1871 to adopt new plans for the improvement of the water-front, which, when they were once ratified by the Commissioners of the Sinking Fund, became binding in regard to new construction. It is under this "new plan" that the work

is proceeding to-day, though the old Board of Docks has been replaced by a single commissioner at the head of the Department of Docks and Ferries.

Limitation on Improvements—Harbor Lines—Plans for Private Improvements

The same constant tendency which exists among abutting owners to encroach on the street lines, exists among shore owners to encroach on the beds of navigable waters. Hence it is necessary to establish what are known as harbor lines, settling a point beyond which solid fillings cannot be put (*i. e.*, bulkhead lines), nor platforms nor piers built (*i. e.*, pierhead lines). These lines are now established by the Federal Government, but were formerly laid down in some instances by the city and some by the State. In 1857 a harbor commission laid out a general set of lines for the port of New York as it then existed. Moreover, plans for improvements, even of private property, have to be passed upon by the authorities. All of this should be carefully borne in mind by prospective purchasers of water-front property, particularly of land under water.

Acquisition — Leases — Sales — Condemnation Proceedings — Expert Testimony

Sales of water-front property around the Island of Manhattan, of course, are becoming fewer and fewer, particularly in the lower half of the island, as municipalization proceeds. In the other boroughs municipalization has not taken place to any great extent, and consequently there is a considerable field therein. What

is meant by "municipalization" is acquisition by the city of private water-front property rights and the subsequent improvement of property taken, according to the "new plan," an acquisition which may take place either by sale to the city or by condemnation proceedings by the city, under provision of various acts of the Legislature. These proceedings consist, in brief, of a petition which is presented to the court by the city, praying for condemnation of the property for public purposes; appointment by the court of commissioners of estimate and appraisal to pass upon the value of the property to be taken; presentation by the owners of the rights, of proof of their title and of the value of the property (which the city seeks to acquire). This is done through expert witnesses, who testify as to its value, their eligibility to testify as experts being based upon their knowledge of water-front values, which may be acquired, as, for example, from experience derived from actual purchases and leases of water-front property made by the expert. The final step is a report by the commissioners of the value.

Referring to leases, it should be borne in mind that they may be obtained of city property for long periods up to 50 years, and that since the abolition of the old Board of Docks they have to be ratified by the Commissioners of the Sinking Fund before they are binding on the city.

Units of Value — Conjunctive Value

In making appraisals it is customary to adopt units of measurement differing from those for ordinary real estate plots. For land under water the unit is the square

foot, for bulkhead rights the running foot. In regard to pier rights the units of measurements differ according to the special circumstances governing the case, as, for example, whether bulkhead rights go with the pier rights, in which case the unit would generally be the square foot of controlled area; in other cases the lineal foot of water-frontage occupied, or the lineal foot of wharfage room; in other cases still, the square foot of pier area, etc. All units may be given a very greatly added value through what has heretofore been explained as the conjunctive value, and for other reasons, for example, whether or not there is a right to shed the pier. The location of the pier and many other points have to be considered, including the legal character of the rights in each particular instance.

Management—Special Kinds of Usage

Water-front property must be managed from the point of view of the water-front and not from the point of view of upland property, if the highest return thereon in the way of revenue is to be obtained. This is very important, and in many sections of the city you will find two pieces of property similarly situated, one yielding a high return because this fact has been kept in view, and the other yielding comparatively little, much to the detriment apparently of the fee value, until the possibilities are carefully studied from the point of view of water-front usage.

Special kinds of usage have developed around the water-front in various localities. Some places have become centers for the distribution of railroad freight, others for the great steamship lines. In one spot on

the North River the hay trade congregates and in another the brick trade. Peculiar arrangements for landing may be found in the railroad transfer bridges, in the ferry slips, in the ice bridges. These and many particular kinds of usage as the dumping boards (for the disposal of what is technically known as cellar dirt, generally consisting of excavations, etc.) and centers of trade, demand special study. The relationship which the water-front bears to the markets of the city, such as the Oyster Basin at the Gansevoort Market (New West Washington Market) and the Wallabout Basin in front of the Wallabout Market in Brooklyn, will prove interesting.

Taxation

Water-front property rights are subject to taxation just as upland real estate is taxed, though leasehold property of the city is not taxed by it.

Maps — Records

The chief water-front map of the city is the Greater New York water-front survey arranged in sheets. This has been published on a reduced scale. Next in importance to the present water-front survey is the McClellan survey of 1870, and the maps formerly compiled under the direction of the Street Commissioner, of which there are about 300 in 13 volumes, many of which refer to the water-front. Of these one of the most useful is the Randall map made in 1820 by John Randall, Jr., pursuant to a resolution of the Common Council to show the location of the farm lines, topography of the land, streams, ponds, water-courses, etc.

In using this map dimensions have to be obtained by scale. It gives high and low water marks. There are also a large number of old-shore maps and many maps dealing with certain particular water-front sections of the city, which will be found of great service for special purposes. Nor should water-front records of tides and currents be overlooked, the records of tidal heights being of service in establishing on a piece of property the mean lines of high and low water marks.

REAL ESTATE MOVEMENTS IN THE BRONX

J. CLARENCE DAVIES

Effect of Factories—Lines of Development—Increasing Values—Gains Spasmodic Rather Than Regular —Business Centers and Density as Factors—Modern Instances.

THE modern development of the Bronx started about 1884. At that time a merchant, who had purchased from the Morris Estate and the Port Morris Land Improvement Company a tract of land around what was known later as North New York, built a series of two-family brick houses in rows. These houses were put up by O'Gorman & Stursburg and extended from 138th Street to about 141st Street. Altogether, during that series of years from 1884 to 1890 this one firm built possibly four hundred of these houses. They were such a great success in renting and in selling that the building of flats soon followed. The flats were financed more or less by building loan operators who had been operating in Harlem and in New York City itself. About 1890 the population of the Bronx was about 70,000.

Operators have purchased land from the original owners—that is to say, the old wealthy merchants—have cut it up into lots and then sold it at auction. The lots were built upon at first with frame houses, which are now passing away. Tenements, apartment houses

and flats are now being built. The leading local settlements are now becoming the business centers and a modern city is being built up which is increasing at the rate of 125 per cent every ten years, or about an average of twelve or fifteen per cent per annum, in population, resources and assessed values.

Effect of Factories

In speaking of the development of the Bronx one must consider a great many factors. In the first place, every section must have within itself some one thing to bring people there, and to keep them there after they arrive, and to distribute money among them. That means that we should have—and we have it—a large money distributing factor in the manufacturing interests of the Bronx. The first factory founded up there was the Jordan L. Mott Iron Works, started about 1830 or 1840. One factory followed another until the Mott Haven district and North New York district were rapidly built up. When, in 1890, the flats were commenced they were rapidly filled by the factory population, and made a paying investment.

The line of development then followed the elevated railroad, which started up there in 1890 and first ran to the Harlem River and then to 170th Street. Later we obtained through trains for one fare, from the Battery to Tremont. All these things caused a rapid growth along the lines of Third Avenue and the elevated railroad. The development of the Bronx, and, in fact, of any suburban district, will be along the line of transit facilities. That has been the history of every section.

Increasing Values

In the future, values in the Bronx will be just as large as they are downtown, and far larger in this section than they will be in other sections and other boroughs.

A sale was made on Tuesday, June 17, 1884—portions of the Fox estate, directly on the line of the suburban rapid transit route. It appears that a suburban rapid transit route was laid out, which the Fox people never built.

This property lies along Westchester Avenue, beginning near the Prospect Avenue station, that is, right along the line of the subway to-day, and runs up to about the line of the Southern Boulevard, the Simpson Street station. At that time a large gore lot on Westchester Avenue and on Kelly Street sold for $200. My impression is that it sold for thirty per cent cash, the balance remaining on mortgage. The lots adjoining this corner—which is to-day worth, I should say, from $16,000 to $18,000—sold for $180, running through from street to street, and for $115 apiece on Westchester Avenue. They are worth from $7,500 to $10,000 apiece to-day.

On Tiffany Street they sold for $150 apiece.

On the Southern Boulevard, between 167th Street and Holmes Street, they sold for $275 apiece.

On Simpson Street they sold for $170 apiece—quite a good price.

On Bristow and Jennings Streets they sold as high as $60 and $65 a lot, and the corner brought as much as $150. The average price realized at that auction sale was $100 or $110 or $115, and the average value of those lots to-day would be about $6,500 or $7,000 a lot. So

that a man who invested $30 or $40 at this auction sale, and paid all taxes and assessments and interest on the mortgage, you will see, would be pretty well ahead of the game to-day.

Gains Not Regular

I do not wish to give you the impression that this growth has been a constant growth. I think that is one of the mistakes the majority of people make—about the growth of vacant land. A lot sold at auction will not increase five per cent or six per cent per annum and keep that growth up steadily. Every experienced real estate operator knows that values do not grow in that way. As an example consider the piece of property lying on Crotona Avenue, running from 175th Street and Third Avenue to the Southern Boulevard, known as the George Faile estate. These lots were sold at auction November 12, 1890, and they ranged in price from $650 a lot to about $1,000 for corners. That is only about eighteen years ago, and the value of these lots to-day is about $5,000 apiece, and I doubt if any man who bought one of these lots for $600 or $700, paying thirty per cent cash down and his interest and assessments later, has not made on that original $200 investment $2,500 to $3,000 in eighteen years.

Take a lot which I myself sold at the corner of what was then known as Potter Place and Jerome Avenue, sold at auction about 1892. The value of that lot in 1892 was $750; it sold at auction for $680.

In 1893 that lot was worth about $900.

In 1894 it was worth about $950.

In 1895 it was valued at $950—no increase.

In 1896 they were asking for that land, or for land of that same nature, $1,000; in 1897, $1,000.

In 1898 the neighborhood began to build up and the value jumped to $1,250 and remained at that figure until 1900. More improvements were made and assessments paid and lots went up in 1901 to about $1,500.

In 1902 the value jumped to $2,000, in 1904 to $2,500; in 1905 to $3,500; in 1906 to $4,500 — the present value of the lot to-day—about $4,500, although they are asking $5,000.

If you buy a lot at auction you must not consider that it increases steadily in value every year; it does not. It may run along for a series of years and you can't see any improvement. You pay assessments and interest on your mortgage, and taxes, and still you can't see any increase in the value of the lot. And you believe you are going to lose money. But there will come one year, or two years, in which the increase will be some two or three or four hundred per cent. It will run along on this level for a series of years and increase perhaps slightly, and then another year or six months and an increase of a hundred or a hundred and fifty per cent will come.

In other words, while the growth over a series of years is steady, it is very spasmodic in any one year.

But there are other sorts of property, as I have found out from experience, that cannot profitably be developed from acreage or farm property or estates into lots and sold at public auction. If you take lots that are worth more than $1,000 apiece or $12,000 an acre, you will rarely, if ever, find that they are purchased for speculation, to be resold at an auction sale. As a general rule, property that is put up at an auction sale is purchased for from $3,000 to $10,000 an acre. The general public

does not, as a rule, buy high-priced lots at an auction. To meet success, when sent under the hammer, lots should be valued at from $300 to $800 apiece. At least, that is what the experience of the Bronx has shown. But any lot bought at a public auction sale from an estate that has cut it up and put it on the market, is as sure to make money for its buyer as anything on this earth is certain, provided the owner simply sits down and waits for that section to grow up. A man who buys a lot at such a sale is getting it from first hands; he is not buying it after the property has been exploited by booms or anything of that kind. My experience of the Bronx has shown that these auction sales are the best method of acquiring land to make money on.

Business Centers and Density

When I am asked at my office how I advise people to invest in real estate in the Bronx, I invariably give one answer, "Buy, if you can afford it, on the leading avenues, and in the business centers if it is possible. Get something, if you can, with a building on it, to help carry the property along. Experience has shown that these business centers become more valuable as population increases." Business centers vary in what I call the density of their population and, in this connection, I want to state also one reason why values are higher right here to-day and will be still higher in the future than in the other boroughs, leaving out Manhattan. Take a block 600 feet long and 200 feet wide, the average block in one of the prettiest sections of Brooklyn, the Flatbush section. This is covered with very pretty two family houses, ten people to a house, each one standing on

a forty-foot lot. These families will form a population of about three hundred people. I am not speaking of the esthetic side of the question at all. I don't say that what we do in the Bronx is the best thing for the physical comfort or for the morals of the population. Now, in the Bronx, in five-story apartment houses, with four families to a floor, there will be 3,000 people living on a plot of ground 200x600 feet in size as against 300 people living on the same sized Brooklyn block. These 3,000 people require stores in proportion. The thirty houses in Brooklyn, on an average of $40 a house, will produce $1,200 rental. In the Bronx, if the rooms rent only for an average of $3.50 or $4 a room, the total for the block will be $12,000. That is the reason that values in the Bronx are so much higher than in the other boroughs outside Manhattan, and always will be so, because the main factor is their density of population.

The density of population makes values and also makes business centers. If a person will look a little ahead and buy to-day at the junctions of great avenues or cross-town streets, he is bound to make money from his investment.

The Nimphius Case

The Morris family owned a large part of this section and, in generation after generation, it was split up among different members. Gerard Morris sold in 1853 a plot of ground at the Southwest corner of 149th Street and Third Avenue, where Hegeman's drug store is now located, to John Nimphius. It fronted 150 feet on what was then Benson Street. Nimphius kept a little tavern there for a number of years. He paid $300 for the land he occupied. Along about 1895 he sold two lots on the

Third Avenue side for about $9,500. The property then had been widened by the opening of Third Avenue. About 1896 the city commenced to widen 149th Street and cut a strip of about nine feet wide off his property. He got an award from the city for this piece of $40,000. In 1900 or 1901 I myself sold the balance of this property for the sons for $70,000. That is $119,500 for an investment of $300, to say nothing of the use of the property for fifty years. That is what buying in a center means.

Now, it doesn't require any great judgment for that. You can look around in the Bronx and in Brooklyn and find old lanes running to a center in the same way.

The northwest corner of Westchester Avenue and Third Avenue was purchased in 1888 by Mr. Franklin A. Wilcox for $48,000—$8,000 cash and $40,000 on mortgage. This piece fronted about 150 feet on Third Avenue and 200 feet on Westchester Avenue and was encumbered with old frame buildings. Mr. Wilcox kept that piece of property until the early part of 1905—some three years ago—when I sold it for him for $295,000—all cash. That is what he made on his original investment of $8,000. During the sixteen or seventeen years he held it the property returned an average rent of four or five thousand dollars a year. This is another example of the result of buying in business centers.

ACREAGE—HOW TO DEVELOP IT

DEAN ALVORD

Laying Service Lines—Wide Street Effects—Trees and How to Plant Them—The Art of Sidewalks—Natural Landscaping—Utilitarian Features

DEVELOPMENT of suburban property to the highest point possible is to solve the question of living for the great middle class of our population which for the past few years has been groaning for release from the imprisonment of the blockhouse and the apartment. The subject will be treated solely as applied to suburban properties built up with detached houses, but within the limitations imposed by the municipal authorities as to topography, width of streets and the distance between the latter.

The creation, therefore, of a *"Rus in Urbe"* is the acme of real estate development. To create a rural park within the limitations of the conventional city block and city street, then, is the task set for the suburban developer.

Service Lines First

This means, first, the abandonment of the "row," and the building of detached houses under carefully thought out restrictions. To prevent the future tearing up of pavements, all the underground pipes for sewer, water, gas, electric light and telephone wires, not only in the streets, but the laterals to the inside of every lot, should

be first laid. Next are surface improvements, sidewalks, curbs and pavements. This work should be all completed before a single house is erected, thus reversing the usual method of development. But it is the details of the surface improvements and of the landscape effects which give to a property any claim to distinction which it possesses.

In order to introduce as much as possible of the park-like appearance, every effort should be made to secure as much open ground as can be obtained with the limitations above referred to.

Wide Street Effects

The width of a street is determined in effect by the distance between the rows of trees which line its sides. This effect of width is greatly enhanced by planting the rows of trees on the building line instead of near the curb. It is difficult for one to realize how great is this difference until he sees two blocks in juxtaposition. This simple rule will give an ordinary sixty foot street the effect of a broad avenue.

Tree Planting

The trees should be selected with reference to their adaptability to the soil and also to the width of the street and its character. A broad, winding boulevard will be best suited to large varieties like the oriental plane, rock maple and linden, or to trees of spreading habit like the American elm. Straight and narrow streets will look best lined with more compact and formal trees, like Norway maple. Such trees as the Carolina poplar, which has a rapid growth, are a great temptation to the developer who is seeking immediate effect. There is no

objection to them, provided they are planted alternately with the permanent trees, and also provided they are cut out before they encroach on the better tree. Great care is necessary that the trees be not planted too closely, as even after they are full grown there should be ample space between for light and air.

Norway maples should stand forty feet apart, giving each tree an opportunity for symmetrical growth, and that individual character so often lacking where trees are run together in the planting. The shadow effects are also much more pleasing where the sun's rays fall between the individuals in the row as well as between the rows of trees. Placing the trees in the position indicated, on the building line, will also give shade both to the sidewalk and to the front yards of the residents. Here, too, they are beyond the reach of horses standing at the curb.

Sidewalks

Lay the sidewalk close to the building line, and as far as possible from the curb, leaving a broad strip of lawn between the two. This may be decorated with flowers, and shrubs of dwarf-growing habit—and selected with reference to foliage and flowering effect at different seasons of the year. Advantage may be taken of the width of the broader streets to combine the two lawn spaces in one parkway running along the middle of the street, with a driveway on either side. Between sidewalk and curb, the space in the ordinary sixty-foot street being limited to eight or nine feet, only dwarf-growing shrubs should be employed.

The smaller spiraes, berberis, deutzias, azaleas, and cydonia, among the deciduous varieties, and the smaller

of the evergreens for winter effect are good. The latter are better grouped in the center parkway, which will perhaps be fifteen feet in width. Here the variety of suitable shrubs may be much enlarged, the added width admitting such plants as the rhododendron and dwarf magnolia, many of the retinosporas, junipers, the mugho pine, arborvitas and some of the evergreen azaleas and mahonias.

Deciduous plants should be selected with reference to the effect of flower, foliage and fruit, the latter being most ornate after the leaves have disappeared on such shrubs as the Berberis Thunbergii, corcorus, ribes and others.

The location of houses upon plots does much to make or mar the general effect of a street and also the pleasure and comfort of its residents. Restrictions should therefore be imposed of such a nature as to regulate exactly the spot on each lot where the house shall stand. In addition to a specified distance between the front wall and the street, all houses on north and south streets should stand not farther than five feet from the north line. This throws the lawns uniformly to the south or living side of each house, and allows for the greatest distance between the houses.

Another restriction which contributes much to a beautiful appearance is that all lots in a rectangular layout should have a uniform grade. If in the laying out of the property the plots are made to break joints, as it were, so that the side line of one plot shall intersect the rear line of another at the middle, a more extended and attractive view may be obtained from the rear of each house as well as from the front. This latter requirement, with the added prohibition of all fences or hedges nearer

the street than the front line of the houses, provides practically a park on either side of the street throughout the entire space between the curb and house front.

Natural Landscapes

So much for the development of the suburb with its limitations of the rectangular block and the straight street. To the man of originality, however, the most attractive field for development is found in just pure country, rough country, where nature has thrown great boulders about, where she has cut deep chasms, thrown up hills, planted great trees, sent cascades tumbling down into the valleys. Here are materials for the artist hand which knows how to use them. Here lies an opportunity to give to every place an individuality impossible under the conditions we have been considering.

These features of rock and hill and dale—priceless in the sight of the artistic developer—are mere obstructions to the man who does not know. His ruthless activity ceases not until every beautiful knoll has been levelled, until every valley has been filled in, until every grand, old, moss-grown boulder has been blasted into building stone, and every century old tree converted into lumber. When this work of destruction is completed and the land is brought at great expense to a dead level, he is then prepared to commence "improvements" by laying cement curbs and sidewalks and building shop houses. He doesn't need an architect. He is sufficient unto all things.

Utilitarian Features

In a country development the purely utilitarian features are the same as those in suburban property.

First and foremost is drainage. And right here there is a good deal of misinformation abroad. The most ambitious developers undertake to install a so-called sewer system, for the sake of advertising purposes. This consists of underground pipes laid throughout the streets, often with very inadequate provision for the outlet and final disposal of the sewage. Such a system is a positive death trap and is far inferior to the ordinary cesspool. As a matter of fact, in such soil as is found over a good part of Long Island, the septic tank, which is Colonel Waring's improved cesspool, is the most sanitary system which has yet been devised, and where properly constructed and on plots of half an acre and upwards, is absolutely safe.

The water question will, of course, receive the most careful attention in any place intended for human habitation

Physical Treatment

But it is in the physical treatment of the surface of the ground in the country that the greatest opportunity lies.

Every natural feature of the ground should be most carefully studied in its relation to the whole. The huge boulder which your too practical builder would blast into foundation stone, we would place at the junction of two drives, and if too large to move, we would place the drives so that they should converge there. Then plant some rock cress or dwarf phlox, or a carpet of sea pink partly around its base and some small trailing vines to climb up its sides with a group of low shrubs in the rear.

Utilize the rocks protruding from the edge of the hill-

side to plant those things whose natural habitat is among the rocks—a group of yuccas, savind, juniper or other low growing evergreens, with erect evergreens in the background, against which the stately white yuccas will stand out as if cut in marble.

Fill up the low places with moisture loving plants, margin the pond with Japan Iris, lobelia cardinalis, the Japanese grasses, red twigged dogwood and yellow barked willow.

If possible, provide ample reservation for the common pleasure of all the residents. Convert the swamp into a lake or pond, stocking it with goldfish to eat up the larvæ of the mosquito. The value of land devoted to such purposes is not lost, but is more than regained by the added value imparted to the remainder.

Look out for fine vistas from the high points; if you have none, create them by good planting.

Avoidance of Straight Lines

Above all, get away from the straight line. Carry the roads through the valleys, let them wind among the hills and never use asphalt or cement in country work. Build macadam roads and gravel paths, park roads, with grass gutters, except on the steep slopes where gutters should be paved with cobble stones.

The exact location of the house on each site should be decided in advance of the sale of the plot, and the purchaser compelled to build on the designated spot.

The setting of every house should be studied and plans approved by some one competent to determine the adaptability of the house to its location, so that a harmonious picture may be created.

We have only to make a trip to downtown Brooklyn or Manhattan to see how examples of beautiful architecture have been sacrificed to the surroundings. Classic designs which call for an isolated location with a setting of green, are wedged in between skyscrapers and made ridiculous by their companionship. Every architect should take a course in landscape gardening before he designs a building.

The architect should contribute his full share to an artistic development. He should catch the real spirit of the enterprise at the outset so that his examples of domestic architecture may be of contrasting but harmonious design, giving to the whole property a distinction which would be lacking without his skillful treatment.

The one consideration which should dominate the mind of the developer is that his property should be treated as a whole, not as a collection of units. Every lot, street, park and building should be studied in its relation to the whole property, just as an artist regards every stroke of his brush on a canvas. In this way there will be produced an ensemble without discord, and a feeling of harmony and restfulness impossible to the urban dweller, and he will then realize to the full the great benefits of country residence.

MANAGING A REAL ESTATE OFFICE

RONALD C. LEE

Importance of Exact Information—List of Owners—List of Properties—New York System—Possible Purchasers and Tenants—Keeping Track of Mortgages—Appraisal Records

THE real estate broker, to justify his existence, must have knowledge—knowledge of how to find buyers and sellers in the greatest quantity and quality, and a knowledge of values and conditions that will, with the least labor, match buyers and sellers. On this hangs all the law and profit in the management of a real estate office.

In what is known as the Metropolitan District, say within a radius of twenty-five miles from the City Hall, there are something like a million parcels of property held by a half million owners, and leased to five million tenants, and carrying half its value in mortgages. Each of these parcels, mortgages, leases, year after year means commissions to the metropolitan real estate broker. No other business or community of business men is the means of handling such an enormous amount of money.

Importance of Records

The machine by which the successful broker handles his share of this enormous business is records, and in

just the degree that he is able to make real estate records subservient to his purpose, is he successful. And every broker who eschews haphazard methods and conducts his business on strictly scientific principles, climbs as far as possible along this path. His success is in exact ratio to his ability in this line plus his own personality. His personality reaches only to the people with whom he actually comes in contact. Through his employees his system may reach to infinity. He is employed to save his clients from having to rely on chance, or from doing a part of this work. Time with the property owner, who is of necessity a man of large affairs, is a matter of money and much money.

Real estate is not considered a quick asset, and this fact diverts an enormous amount of capital, which would otherwise be invested in that direction. The successful broker is one who can most unerringly bring together the buyer and seller, mortgagor and mortgagee, the lessor and lessee. To do so, he must have records posted like a huge army of scouts with methods of intercommunication to facilitate instantaneous reports to headquarters—his brain—and this is no easy or inexpensive matter. It means clerks, card files, reporters, brokers, and subscriptions to expensive and highly developed services which gather and digest this information for his consumption. Then at best only a small part of the entire territory can be covered, but the separate department should be co-operative, or the full measure of success cannot be hoped for. The ideal transaction would be one in which the broker sells the lot to the builder, secures a building loan, retires the building loan from a permanent loan, sells the property to an investor and continues to manage the property and renew the loan from time to time.

List of Owners

First, the broker must know who would sell. To do that he must know who owns the property. To gather this from the Hall of Records is an insuperable task; unless one name in the chain of title is known, it is practically impossible. Previous to 1892, the index to conveyances was kept in alphabetical order, and to locate a given property thousands of deeds might have to be read. Since 1892 only those in any given block would have to be followed up. But that in itself is a huge task. This work has all been simplified by the compilation called the Real Estate Directory of Manhattan.

This directory is cross-indexed. The first is geographical, according to street number. This division gives the street number, the block and lot number, the last owner of record at the date of publication, the date of record, and in the case of multifamily houses, a full description, such as flats to the floor, rooms to the flat, steam heat, hot water, elevators, store fronts and the like. The second classification is alphabetical. In this part each property owner's name is arranged in alphabetical order, followed by his address and a list of his holdings. So, to locate the owner of a particular parcel, turn first to the street, glance down the column to the number, and then turn to the name given in the alphabetical section for the address. But ten to thirty thousand parcels change hands each year. How can it be known that this very parcel has not been transferred? A weekly supplement is issued giving the property sold or bequeathed and the name and address of the purchaser or heir. To avoid a search for the owner through a number of these supplements, a cumulative index called

the Checking Index is issued each week. Thus the first index of the year contains the first and second week, the second, the first, second and third week, and the fifty-first the last one of the year, the whole fifty-two weeks inclusive. After that a new real estate directory is issued. Thus one great labor existing in the past has been eliminated by a central co-operative bureau.

A more comprehensive and more expensive system is one which does away with the weekly supplement and Checking Index, and reports each conveyance as it is recorded on a separate filing card. This card bears an abstract of the title. As property is transferred not only by conveyance but by will and letters of administration, the means of transfer is specified.

List of Properties on Market

Now begins the final work of the broker. He must ascertain in a general way what property in the territory he elects to cover is for sale, and this means an individual canvass, either by personal interview or by letter, of all the property owners. This gives a general idea of his market. He finds that almost all property is for sale but at prohibitive prices, and it behooves him to use the finesse of his business to find out who really would sell. There are several ways, but all lead back to his records. One way is to see from the daily papers who is selling, and see if that party holds more property in a neighborhood in which our broker might interest a customer. The alphabetical list of the Real Estate Directory will give this information. Owners who permit a "for sale" sign to be placed on their houses are as a rule anxious to sell, and a broker should keep a careful

watch for the signs of rival brokers, either through his own office machinery, or by the aid of a service designed for this purpose by the Realty Records Co.

Keeping Track of Mortgages

Frequently houses which are heavily mortgaged at a rate of interest lower than the prevailing rate at the time of maturity can be bought or exchanged at a reasonable figure. The expiration of mortgages should be followed up by the use of the Mortgage Indication or the Record and Guide Quarterly, both published by the Realty Records Co. These publications and their use will later be described at greater length.

New York System

In Manhattan, brokers who specialize in the sale of property follow two distinct methods: Either they confine themselves to one locality, thoroughly master all the technical conditions existing there, and supply the steady demand for property in that neighborhood, or they follow the current of greatest activity. This latter demands a much higher order of ability. It means keeping one's hands always on the pulse of the market. To be successful in this line the broker must know how to select with unerring instinct, the possible buyer—the professional operator, the wealthy investor, the man who has just been paid a mortgage or sold a house and thus has funds on hand, the buyer in that or similar neighborhoods.

After information regarding property for sale has been secured, it should be tabulated by means of a card system. Different colored cards should be used for va-

rious kinds of properties, and the prices should be classified by a system of tabs. For instance, low priced properties should have their tab on the left side of the drawer, and progress by degrees until the highest priced properties have tabs on the right side of the drawer. Thus a broker can know at a glance just where to look for a particular kind of property. The information on these cards should be very full—location, description, number of rooms, improvements, condition of repair, mortgage, purchase money mortgage, rate and terms, leases and asking price with any particulars known about the property or neighborhood.

Possible Purchasers and Tenants

The maintenance of a file for possible purchasers is much more difficult, as no exact method can be followed. Still, a list should be kept, and a notation made on the card regarding the nature of property wanted.

Skillfully worded form letters should be sent out constantly. It should be a part of the routine of every well conducted real estate office to have form letters go out daily to possible customers or clients; to a man who has just sold, to those inheriting property, etc. This can safely be left to a competent stenographer.

Leasing of property is much more of an exact science. The business here is limited to vacant places and parties wishing quarters. The obvious methods of acquiring a list of property is to tabulate the signs of other brokers. The Realty Record Co. also furnishes such lists and notifies the subscriber of withdrawals from the market. The second method and the one much more comprehensive in its scope, is to tabulate the expiration

of the leases and communicate with the tenant just before its expiration. This work is also being done for the real estate man by the Realty Record Co. A file for the expiration of all leases coming within his knowledge should be kept by each broker. In the matter of securing tenants the broker should rely on advertising, and his own personal ability to bring vacancies to the attention of tenants in other buildings whose leases are about to expire and who would be obviously benefited by the change.

Mortgage Brokerage

The mortgage business differs in many respects from selling and leasing of property. It resembles leasing, in the fact that a parcel can carry only so much mortgage, and each mortgage has a given number of years to run. Like the selling of property, the business divides itself naturally into clients and customers—the man with the money and the man with property on which he wishes to borrow—to find who has the money—to get the application.

The Realty Records Co. publishes each week a complete list of the channels through which mortgage money comes. It behooves each specialist in the placing of mortgages to be acquainted with such a list. In addition the Mortgage Indication issued by the Realty Records Co. publishes three months in advance of maturity a list of mortgages which fall due, giving the channel through which the money came at the time of the placing of the mortgage. This is an indication that mortgage money may be obtained from that source. The broker should also maintain a list of institutions making

a specialty of lending money. The mortgage business might be classed under the following heads: Building Loans, Replacing Expiring Mortgages, First Mortgage, Second Mortgage. The placing of building loans in Manhattan requires a wide acquaintanceship with the professional builder. To replace the building loan with a permanent loan necessitates the following up of projected buildings as listed in the Record and Guide, a weekly paper devoted to real estate and building information.

Mortgage Expirations

The second grand division of the mortgage business depends on the knowledge of the date of expiration of existing mortgages. There are two methods of following up this information, either for the broker to tabulate expirations in his own office from the Record and Guide Quarterly, or to purchase lists of expiring mortgages three months in advance of maturity, as published in the Mortgage Indicator.

This Mortgage Indicator gives a transcript of the instrument, the channel through which the money came originally, and the name and address of the present owner of the property. The broker should communicate with both the owner of the property and the holder of the mortgage, especially when the rate of interest on the old mortgage differs from the rate prevailing at the date of maturity.

A careful study of the personal idiosyncracies of the lenders must be made. Where they prefer to lend, the character of the property and rate of interest, and most particularly, when they are in funds.

Appraisal Records

The daily duty of every real estate broker is to value real estate, and this is called appraising. There is but one basis of appraising, and that is the one of rental return. What rent will a given property bring?—in other words, the return on the investment. A good definition of an appraisal is the price the property would bring from a purchaser who did not have to buy from a vendor who did not have to sell. Such a purchaser would base the fee, first on the gross rent return, and then capitalize this rent on the rate of interest he expected to get on his money. For instance, he expects a net return of ten per cent. The net rental is ascertained to be $5,000. Therefore, $5,000 is ten per cent of the value of the property which, in that case, would be $50,000. Of the two things to determine, net rental and rate of interest to expect, net rental is the easiest. But that entails a thorough knowledge of existing conditions, rentals in similar properties, percentage of vacancies, cost of repairs and running expenses. Rate of interest is much harder to determine, and is governed entirely by the rate of interest secured by adjacent or similar property owners, which brings the appraiser back in a circle to the market price of the property. This is almost wholly determined by what other and similar property has sold for, or the price at which like property is held. Again the great value of records—First, legal sales, as published and compared in various publications of the Record and Guide, and the Realty Records Co.; second, the broker's own knowledge of prices secured; third, the varying conditions surrounding each parcel of property.

In appraising vacant property, the appraiser must first imagine an adequate improvement on the property, determine its value from similar properties, as explained above, subtract the cost of erecting the building from the total, which will give the value of the vacant land.

A very rough method of appraisal is to take the valuation placed upon it by the city in the tax assessments (which are published in the City Record) and add ten per cent or twenty per cent.

There are boom times in real estate and periods of comparative stagnation, but all the time there is some buying, some mortgaging and some renting. The real estate man who understands the proper use of records is seldom or never without some promising deal on hand, and is enabled to pick and choose the very remunerative deals on the flood tide of prosperity.

OLD NEW YORK AS KNOWN BY A REAL ESTATE PIONEER

E. A. CRUIKSHANK

WHAT wonderful changes has this city seen, and how it has grown! I can remember when Castle Garden, now the Aquarium, could be reached only by a long bridge, as it was far away from the shore and surrounded by water. Going back to my father's time, there were no Washington or West Streets, and the bowsprits of the ships used to stick over the yard of the house which fronted on Greenwich Street. There were no steamboats then. The only way to reach Brooklyn was by means of a periagua, or small sailing vessel. There was good gunning on Brooklyn Heights, and my father shot many a bird there.

Everything in New York was equally primitive. The only water supply was the old pump on the corner. There were no sewers—only open gutters, and the pigs used to wander down Beaver Lane, now known as Morris Street, acting as scavengers. There were no railroads, telegraphs, telephones, street-cars, bridges. If you wanted some wood cut, the old colored men used to come around with buck and saw and cut it in front of the house. The city was very small, and its court end, where the finest residences were, was in front of the Bowling Green and the Battery and on Broadway and Greenwich Street.

The rear part of the City Hall was finished in an inferior manner to the front, for the reason that it was so far uptown that it was supposed the city never would grow beyond it. The site of the Tombs was a good fishing pond; through Canal Street ran a wide stream that it seemed almost impossible to fill. The country seats and farms lay beyond. To show the marvelous growth of the city, the president of one of the largest downtown banks bought a country place for himself and family (this was before Central Park was thought of) running from, I think, 52d Street to 66th Street, and from Fifth to Fourth Avenues—as Madison Avenue was not in existence—for $40,000, and his friends criticized him and condoled with his family at such a wild and crazy investment of so large an amount of money for such a far-away piece of land. His only answer was, "While I will not derive any benefit from the investment, my grandchildren will." But even he did not realize the wonderful changes that were coming. I offered, not to a grandchild, but one of his children, $1,000,000 for the block front on Fifth Avenue between only two of the streets and only 100 feet deep, and you can figure out what the farm had then become worth.

I myself can remember the old Crystal Palace that stood on the plot now called Bryant Park, between 40th and 42d Streets. On the opposite side of Sixth Avenue stood a row of two-story buildings occupied as stores, and when the Crystal Palace burned down, all the shopkeepers were ruined and the stores stood idle for a long time, for it was so far uptown scarcely anyone ever came there. There was no fire department in those days, but first the bucket brigade, and then the hand engine, with its long arms, easy at first under the excitement, but

growing harder every minute, drawing the water out of the few cisterns that were, or if happily close to the shore, tapping the rivers.

But few courts then and justice was quicker! The murderer on the day set for his execution was brought out, his coffin placed on a truck, and he was seated on his coffin, and guarded on either side. The procession passed up Broadway to the gallows, where he was hanged in open sight of all, as a warning to evildoers.

The winters seemed to be colder, not only the East but also the North River was frozen over, and at times so hard and so thick was the ice that a barbecue would be held and an ox roasted on the frozen waters.

How all has changed! Whereas the best real estate agent then would have died of starvation if he had had only his commissions to buy his food and lodging or support his family, now a lucrative business awaits him if he but brings the brains, the honesty and the perseverance which are necessary for success in any other profession. The small three-story or possibly four-story houses are gone, and the eight, ten, twelve, and so on, up to the thirty-story skyscrapers, have taken their places, with elevators, electric lights, filtered and cooled water, etc., with an army of employees, superintendents, engineers, electricians, porters, scrub women and elevator boys. With all the facilities of travel—trolleys, elevated roads, subways, bridges, tunnels—with values changing from hundreds to hundreds of thousands or even millions, with the city constantly expanding, the real estate man versed in his business is the right hand adviser of the rich investor or the vast corporation in regard to the advisability of their investments in real estate, the desirability of their loans on bond and mortgage, the

settling of how they may obtain the best returns from the money to be expended or loaned. Gentlemen, you have chosen a profession in which you can be ever learning. If you have already learned somewhat of building, plumbing, electrical work, engineering, architecture, etc., so much the better. You will also find it both pleasant and necessary to watch the growth of the city, the changing of its various lines of business from one quarter to another, the extension of its dwelling facilities, and from the lessons of old New York, forecast the future of the new.

DAVIES AND HOFFMAN RULES

WILLIAM E. DAVIES

Hoffman Rule and Its Defects—Davies Rule for Valuing Lots Differing in Depth or Width from Standard Lots—How to Compute Corner Values with the Table—Foreclosure Sales No Criterion of Value —Plottage

HOFFMAN RULE

Lot Ft.	Value	Aggregate per cent	Lot Ft.	Value	Aggregate per cent
25x100	$1,000		55x25	$715	71.50
10x 25	160	16	60x25	760	76
15x 25	235	23.50	65x25	800	80
20x 25	310	31	70x25	840	84
25x 25	375	37.50	75x25	875	87.50
30x 25	440	44	80x25	910	91
35x 25	500	50	85x25	935	93.50
40x 25	560	56	90x25	960	96
45x 25	615	61.50	95x25	980	98
50x 25	670	67	100x25	1,000	100

REGARDING the Hoffman rule, the compiler has in the past used same in many cases, its application having been stipulated by both parties in several proceedings, but a long and very varied experience in making appraisals as a real estate expert has impressed upon him its frequent inconsistency and the necessity of devising some logical method of valuing lots more or less than one hundred feet in depth.

After studying 10,200 sales and ascertaining the average values of lots of different depths, the compiler adopted the following equation of the parabola in which Y = the proportion of value of lot in question to value

of full lot, and X = the proportion of depth of lot in question to depth of full lot (100 feet).

Formula of Davies rule:

$$Y = \sqrt{1.45\ (X + .0352)} - .226$$

This formula has been tested in several hundred appraisals and found invariably to produce a satisfactory result.

It has, moreover, the inestimable advantage that it can be applied to lots of any depth and not alone to strips varying five feet in depth within the limit of 100 feet, as is the case with the Hoffman rule.

Corner Lots

Let us suppose that a corner lot is 25x50 and that the standard inside lot 25x100 is worth $1,000. The ratio for the depth of fifty feet as given in the table is .654. Corners in this neighborhood are worth fifty per cent more than inside lots. This does not mean that $327 (50% of $654) is to be added to the $654 given as the ratio for depth. Merely the ratio of 50% is to be added. Fifty per cent of .654 is .327. This gives the value of the corner as

$$\$654 + 32.7\% = \$868$$

the proper value of a corner 25x50.

For depths with parts of foot or more than 200 feet, or where greater accuracy is desired than three places of decimals, use the formula in which Y = the proportion of value of lot in question to value of standard lot, and X = the proportion of depth of lot in question to depth of standard lot:

$$Y = \sqrt{1.45\ (X + .0352)} - .226$$

DAVIES RULE

Table for Estimating the Value of Strips of Lot up to 25x200

(Deduced from the mean of thousands of actual sales)

Depth	Ratio	Depth	Ratio	Depth	Ratio	Depth	Ratio
1	.030	51	.662	101	1.006	151	1.267
2	.057	52	.670	102	1.012	152	1.272
3	.082	53	.678	103	1.018	153	1.277
4	.105	54	.686	104	1.024	154	1.282
5	.126	55	.694	105	1.030	155	1.287
6	.146	56	.702	106	1.036	156	1.292
7	.165	57	.710	107	1.042	157	1.297
8	.183	58	.718	108	1.048	158	1.302
9	.200	59	.726	109	1.054	159	1.307
10	.217	60	.734	110	1.060	160	1.312
11	.233	61	.742	111	1.066	161	1.317
12	.248	62	.750	112	1.072	162	1.322
13	.263	63	.757	113	1.077	163	1.327
14	.278	64	.764	114	1.082	164	1.332
15	.292	65	.771	115	1.087	165	1.337
16	.306	66	.778	116	1.092	166	1.342
17	.319	67	.785	117	1.097	167	1.347
18	.332	68	.792	118	1.102	168	1.352
19	.345	69	.799	119	1.107	169	1.357
20	.358	70	.806	120	1.112	170	1.362
21	.370	71	.813	121	1.117	171	1.367
22	.382	72	.820	122	1.122	172	1.372
23	.394	73	.827	123	1.127	173	1.377
24	.406	74	.834	124	1.132	174	1.382
25	.417	75	.841	125	1.137	175	1.387
26	.428	76	.848	126	1.142	176	1.392
27	.439	77	.855	127	1.147	177	1.397
28	.450	78	.862	128	1.152	178	1.402
29	.461	79	.869	129	1.157	179	1.407
30	.471	80	.876	130	1.162	180	1.412
31	.481	81	.883	131	1.167	181	1.416
32	.491	82	.890	132	1.172	182	1.420
33	.501	83	.897	133	1.177	183	1.424
34	.511	84	.904	134	1.182	184	1.428
35	.521	85	.910	135	1.187	185	1.432
36	.531	86	.916	136	1.192	186	1.436
37	.541	87	.922	137	1.197	187	1.440
38	.550	88	.928	138	1.202	188	1.444
39	.559	89	.934	139	1.207	189	1.448
40	.568	90	.940	140	1.212	190	1.452
41	.577	91	.946	141	1.217	191	1.456
42	.586	92	.952	142	1.222	192	1.460
43	.595	93	.958	143	1.227	193	1.464
44	.604	94	.964	144	1.232	194	1.468
45	.613	95	.970	145	1.237	195	1.472
46	.622	96	.976	146	1.242	196	1.476
47	.630	97	.982	147	1.247	197	1.480
48	.638	98	.988	148	1.252	198	1.484
49	.646	99	.994	149	1.257	199	1.488
50	.654	100	1.000	150	1.262	200	1.492

Example—To find the value of lot 110 feet deep, if standard inside lot is worth $75,000, multiply 75,000 by 1.06 = $79,500.

Table of Percentages for Lots More or Less than 25 Feet Wide

Width	Percentage	Width	Percentage	Width	Percentage
12.6	.50	19.0	.76	24.0	.96
13.0	.52	19.9½	.79	24.11	.996666
14.0	.56	20.0	.80	25.5	1.016666
15.0	.60	20.11	.836666	25.8½	1.028333
15.10½	.635	21.0	.84	25.11	1.036666
16.0	.64	21.0½	.841666	26.7½	1.065
16.8	.666666	21.6	.86	27.2	1.086666
17.0	.68	22.0	.88	28.3	1.13
17.3¼	.690832	22.0⅝	.882083	30.11½	1.238333
18.0	.72	22.6	.90	33.4	1.333333
18.9	.75	23.9	.92	37.6	1.5
18.11	.756666	23.0	.95	40.0	1.6

Example—If lot is 100 feet deep, multiply value of standard lot by percentage opposite width.

If more or less than 100 feet deep, multiply result obtained by Davies rule by percentage opposite width.

Divide value of lot 25 feet wide and more or less than 100 feet deep by Davies rule ratio and, if more or less than 25 feet wide, by width percentage in addition, to arrive at value of standard lot.

To ascertain percentage added to inside lot to obtain value of corner lot, divide difference by value of inside lot.

To find percentage of inside lot of corner lot, divide value of inside lot by value of corner lot.

The percentage deducted from corner lot to fix value of inside lot is the result of difference divided by value of corner lot.

Value per square foot of standard lot, 25x100, can be found by multiplying value by four and marking off four figures, and value per front foot by same method and marking off two figures.

When the value per square foot of standard lot is given, its full value is value per square foot divided by four with four figures added.

To extract plottage, divide by one plus added percentage.

To analyze sale, if all standard lots, assuming a key lot to be worth ten per cent and a corner sixty per cent more than an inside lot, multiply the price less plottage by 1 for an inside lot, 1.1 for a key lot, and 1.6 for a corner, and divide each result by the sum of the units. When the lots are not of standard depth, the units will be the figures given in Davies rule, plus the added percentage for key and corner lots, and, if more or less than 25 feet wide, the product of same and the width percentage.

Foreclosure Sales

Foreclosure sales are no criterion of values for the following reasons:

First—Prospective bidders are well aware of the fact that the auction is not really an open one to the highest *bona fide* bidder, as the mortgagees and other lienors will, in all probability, bid up to the amount of their respective claims, which are only publicly advertised in the case of liens prior to that under which the sale is authorized, subsequent liens not being disclosed, whereas other judicial sales are almost invariably absolute, positive, peremptory and without reserve or upset price, thus encouraging buyers to bid against each other.

Second—In foreclosure sales the referee has to require payment in cash, while in partition, executors' and trustees' sales, it is very common to state in the adver-

tisement that a large percentage can remain on bond and mortgage at a low rate of interest, if desired, and also to furnish title insurance policies free of cost.

Third—It is the general impression of the real estate fraternity that it is much easier to deal with a mortgagee after he has bid in the property, as time is allowed for negotiations, and easy terms can probably be arranged.

General

Whenever land increases rapidly in value, although it may seem somewhat anomalous, the rental value of the buildings several years old decreases materially, on account of the necessary demolition of older buildings and the construction of adequate improvements with which the first mentioned cannot successfully compete.

It is generally recognized in real estate circles, and could not well be otherwise, that when land and buildings are purchased and the latter torn down in order to make way for a more adequate improvement, the value, if any, of the structure so demolished is merged in the cost of the land.

Plottage

Plottage is an added percentage to the aggregate value of two or more contiguous lots held in one ownership and attaches when vacant or covered by a single structure. Where there are separate buildings on the lots and plottage is claimed, full value cannot be allowed for the buildings. (73 App. Div., 152.)

LEASE TABLES

Table for the Purchasing of Leases, for the Terms of Years Certain at Rates from 4 to 10 per cent Interest Which the Purchaser May Thereby Make of His Money

Years	4% Years' Purchase	4½% Years' Purchase	5% Years' Purchase	6% Years' Purchase	7% Years' Purchase	8% Years' Purchase	9% Years' Purchase	10% Years' Purchase
½	.490	.489	.488	.485	.483	.481	.478	.476
1	.962	.957	.952	.943	.935	.926	.917	.909
1—½	1.442	1.435	1.428	1.414	1.401	1.388	1.374	1.362
2	1.886	1.873	1.859	1.833	1.808	1.783	1.759	1.736
2—½	2.357	2.340	2.323	2.290	2.258	2.226	2.195	2.165
3	2.775	2.749	2.723	2.673	2.624	2.577	2.531	2.487
3—½	3.236	3.205	3.175	3.115	3.057	3.001	2.946	2.893
4	3.630	3.588	3.546	3.465	3.387	3.312	3.240	3.170
4—½	4.081	4.033	3.985	3.893	3.804	3.718	3.634	3.554
5	4.452	4.390	4.329	4.212	4.100	3.993	3.890	3.791
5—½	4.893	4.825	4.757	4.626	4.501	4.380	4.264	4.153
6	5.242	5.158	5.076	4.917	4.767	4.623	4.486	4.355
6—½	5.674	5.582	5.492	5.317	5.151	4.993	4.841	4.697
7	6.002	5.893	5.786	5.582	5.389	5.206	5.033	4.868
7—½	6.425	6.306	6.191	5.969	5.759	5.559	5.370	5.190
8	6.733	6.596	6.463	6.210	5.971	5.747	5.535	5.335
8—½	7.146	6.999	6.856	6.583	6.326	6.083	5.854	5.637
9	7.435	7.269	7.108	6.802	6.515	6.247	5.995	5.759
9—½	7.839	7.661	7.489	7.162	6.855	6.567	6.297	6.043
10	8.111	7.913	7.722	7.360	7.024	6.710	6.418	6.145
10—½	8.506	8.295	8.092	7.708	7.349	7.015	6.702	6.411
11	8.760	8.529	8.306	7.887	7.499	7.139	6.805	6.495
11—½	9.146	8.901	8.666	8.222	7.810	7.428	7.074	6.744
12	9.385	9.119	8.863	8.384	7.943	7.536	7.161	6.814
12—½	9.762	9.481	9.212	8.707	8.241	7.811	7.414	7.047
13	9.986	9.683	9.394	8.853	8.358	7.904	7.487	7.103
13—½	10.353	10.036	9.732	9.164	8.643	8.165	7.726	7.322
14	10.563	10.223	9.899	9.295	8.745	8.244	7.786	7.367
14—½	10.922	10.566	10.227	9.594	9.018	8.492	8.011	7.571
15	11.118	10.740	10.380	9.712	9.108	8.559	8.061	7.606
15—½	11.469	11.074	10.698	10.000	9.368	8.794	8.272	7.796
16	11.652	11.234	10.838	10.106	9.447	8.851	8.313	7.824
16—½	11.994	11.559	11.146	10.383	9.695	9.074	8.511	8.001
17	12.166	11.707	11.274	10.477	9.763	9.122	8.544	8.022
17—½	12.499	12.023	11.573	10.744	10.000	9.332	8.731	8.187
18	12.659	12.160	11.690	10.828	10.059	9.372	8.756	8.201
18—½	12.985	12.467	11.979	11.084	10.285	9.571	8.931	8.356
19	13.134	12.593	12.085	11.158	10.336	9.604	8.950	8.365
19—½	13.451	12.891	12.365	11.404	10.551	9.792	9.115	8.509
20	13.590	13.008	12.462	11.470	10.594	9.818	9.129	8.514
20—½	13.900	13.298	12.733	11.706	10.800	9.997	9.283	8.647
21	14.029	13.405	12.821	11.764	10.836	10.017	9.292	8.649
21—½	14.331	13.686	13.083	11.991	11.031	10.185	9.437	8.772
22	14.451	13.784	13.163	12.042	11.061	10.201	9.442	8.773
22—½	14.745	14.058	13.417	12.259	11.248	10.360	9.578	8.883
23	14.857	14.148	13.489	12.303	11.272	10.371	9.580	8.887
23—½	15.143	14.413	13.734	12.512	11.450	10.521	9.707	8.985
24	15.247	14.495	13.799	12.550	11.469	10.529	9.707	8.991
24—½	15.526	14.753	14.036	12.751	11.638	10.671	9.823	9.077
25	15.622	14.828	14.094	12.783	11.654	10.675	9.826	9.084

Assuming a lease of ten years producing a net income of $1,000, the value of same, if rent is payable monthly, will be, on a six per cent basis, $1,000 × 7.360 (table), $7,360 × 1.02721 (constant factor, table below) or $7,560.26.

Constant Factors for Converting Values and Amounts of Yearly Leases into Those of Leases for One Year, Payable Half-yearly, Quarterly, and Monthly

Yearly Rates	Half-yearly Factors	Quarterly Factors	Monthly Factors
.01	1.00249	1.00377	1.00460
.0125	1.00312	1.00469	1.00572
.015	1.00374	1.00563	1.00685
.0175	1.00436	1.00650	1.00799
.02	1.00497	1.00747	1.00914
.0225	1.00559	1.00841	1.01027
.025	1.00621	1.00933	1.01142
.0275	1.00683	1.01025	1.01254
.03	1.00744	1.01118	1.01368
.0325	1.00806	1.01211	1.01482
.035	1.00867	1.01303	1.01594
.0375	1.00929	1.01395	1.01707
.04	1.00990	1.01488	1.01820
.045	1.01113	1.01672	1.02046
.05	1.01235	1.01856	1.02271
.06	1.01478	1.02223	1.02721
.07	1.01720	1.02588	1.03169
.08	1.01961	1.02952	1.03616
.09	1.02201	1.03314	1.04061
.10	1.02440	1.03676	1.04504

BROKERS' AND AUCTIONEERS' COMMISSIONS

THE following table of commissions is that adopted by the Real Estate Board of Brokers of New York and published in its official Year Book.

Regulations as to Private Sales

The following commissions shall be chargeable on private sales, except where a special contract has been previously made:

	Per Cent.
1st. For selling real estate within the limits of New York and Brooklyn	1
Leaseholds	2
2d. For selling real estate in the suburbs of New York, Brooklyn and country property	2½
3d. Western and Southern lands	5
4th. Selling leases and leaseholds in the suburbs of New York	5

5th. Procuring loans, 1 per cent, or by agreement.

In the case of exchanges, a full commission shall be paid on each side. No sales shall be made for a commission of less than $25.

Should the title of property prove imperfect, whereby a sale cannot be consummated, the claim for commissions shall not be invalidated thereby.

Brokerage shall be deemed to be earned when the price and terms are arranged between buyer and seller,

the minds of both parties having fully met. It shall be due and payable when the contract is signed.

Regulations as to Agents and Management of Property

The following commissions shall be charged for the management and letting of property, except where a special contract has previously been made:

	Per Cent.
Renting for a term under three years on first year's rental or fraction thereof	2½
Renting for less than one year, by special agreement.	
Leasing for a term of three years and upward, on gross rental, except by special agreement	1
Leasing country property, first year	5
Each subsequent year, to same party	2½
On renting and collecting, except by special agreement	5

Appraisement Charges

For appraising real estate in the Boroughs of Manhattan, Bronx and Brooklyn, from $10 to ¼ of 1 per cent upon valuation, or according to agreement.

Suburban property, ½ of 1 per cent, or according to agreement.

NEW YORK AUCTION FEES

The following regulations governing the fees for auctioning real estate are those adopted by the Real Estate Auctioneers' Association of the City of New York:

Regular Salesroom Fees

Knockdowns on all real estate .....$ 5.00
Auctioneers not renting stands to pay double rate 10.00

Legal Sales Fees

Knockdowns on all sales of real estate by order of the court .....$ 2.00

Salesroom fees on property offered at upset prices shall be the same as if sold. In all cases where property is offered at an upset price and not sold, or where the property is bid in by the owner, or on his behalf, the auctioneer shall so inform the manager immediately after the sale.

Commissions on Auction Sales

Commissions on sales of real estate shall be as follows, *viz.:* On New York and Brooklyn property, not less than ½ of 1 per cent, to be paid by the seller in addition to the expense of maps, advertising and salesroom fees; and no member of the association shall be allowed to divide this commission with any person except a real estate broker bringing a sale direct.

On country property and leasehold property, wherever situated, the commission shall be not less than 1 per cent, to be paid by the seller in addition to the expense of maps, advertising, and salesroom fees.

The purchaser shall also pay the auctioneer's fee of $20 on each numbered lot, except on sales of property producing less than $1,000, when the fee shall not be less than $10 on each lot.

All legal sales shall be at the legal rate, *viz.:* $15 auction fee and $2 salesroom fee, to be paid by the purchaser.

The auctioneer shall be entitled to his commission on any real estate advertised by him and sold by the owner previous to the day of sale, the same as if sold at auction.

Brooklyn Auction Fees

The following regulations governing exchange and auction are those adopted by the Brooklyn Real Estate Exchange:

Exchange Fees

Knockdown on real estate to auctioneers renting stands	$ 2.00
Knockdown on real estate to auctioneers not renting stands	6.00
Knockdown on all sales of real estate by order of the court	2.00
Auctioneers' stands, terms per annum, from May 1, payable in advance quarterly	100.00

Commission on Auction Sales to Be Paid by Buyer and Seller

The commission on auction sales of real estate shall be as follows, *viz.:* On New York and Brooklyn property, ½ of 1 per cent, and on country property, 1 per cent, to be paid by the seller, in addition to the expense of maps, advertising and salesroom fees. The purchaser shall also pay the auctioneer's fee of not less than fifteen dollars, except on sales of property producing less than $1,000, when the fee shall not be less than ten dollars on each lot. All legal sales shall be at the legal rates, *viz.:* fifteen dollars auction fee and two dollars salesroom fees, to be paid by the purchaser.

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